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TRANSITION TO THE BANGSAMORO

Change and Imagination

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Established in 2001, the Institute for Autonomy and Governance, Inc. seeks to provide research, training and technical assistance to promote meaningful autonomy and governance in the southern Philippines.

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AUTONOMY AND PEACE REVIEW



INSTITUTE FOR AUTONOMY AND GOVERNANCE



KONRAD ADENAUER-STIFTUNG

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EDITORIAL

EDITORIAL



There are two important words in the discourse on the transition from the ARMM to the Bangsamoro: Change and Imagination.

All men and women of goodwill hope that this transition leads to changing the state of things for the better---new politics and governance, new intergovernmental relations that are productive, and new mechanisms and processes that will bring out a just and sustainable peace and development. Along the road to transition to the envisioned Mindanao are many opportunities to seize and challenges to overcome. It is important therefore that while we work towards positive change, we should let our imagination soar as well---imagining the stones that we can build on while avoiding or mitigating the many bumps and turns along the way.

There are those who say that the question “what if” can lead to paralysis and inability to do a leap of faith which is often called for in any peace negotiations. For IAG, “what if” questions need to be asked so that more than sheer faith, reason and goodwill will animate the peace process moving forward. IAG takes the lead in exploring, imagining and analysing the options , opportunities and problems in the transition and change for an empowered, united and peaceful Bangsamoro.

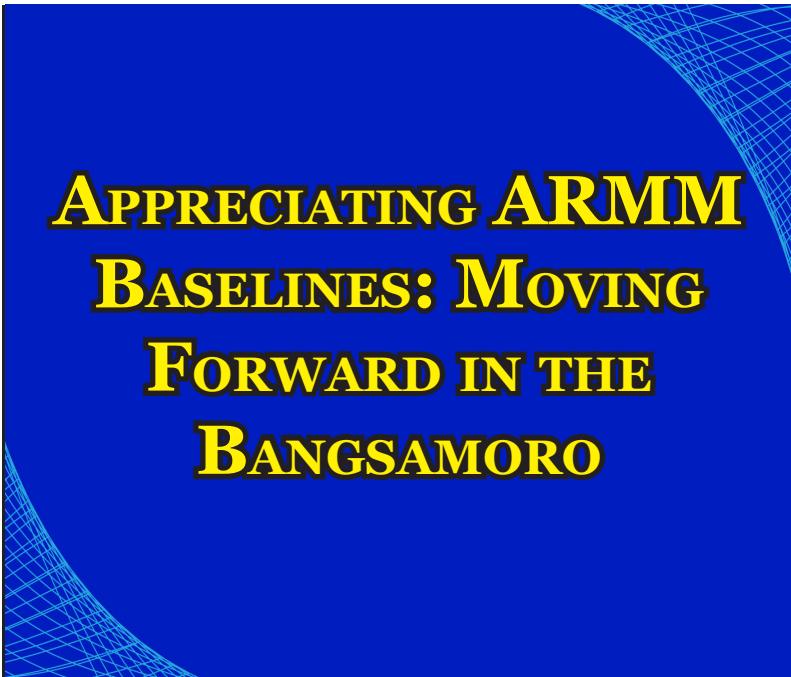
This issue of the APR helps readers in imagining the future in the light of the emerging peace agreement between the MILF and the GPH. An IAG-commissioned study by Crisanto Cayon and Kathleen Geslani provides the most current baseline data on the ARMM to aid advocates for change to make informed choices and decisions. Dr. Peter Koppinger, representative of the Konrad Adenauer Foundation in the Philippines, explores the options for the future ministerial and electoral systems in the Bangsamoro. Helping us imagine better governance in the autonomous region, Dr. Minalang M. Barapantao, Sr. writes on the Conceptual Framework on Good Governance while Dr. Zainal Dimaukom Kulidtod explores the phases of power sharing as applied to the Mindanao problem. We are publishing the key agreement on wealth sharing between the GPH and the MILF with the accompanying annotation and comments by Atty. Johaira Wahab, Commissioner in the Bangsamoro Transition Commission.

We are also including in this issue some views on the Zamboanga crisis and its implications to our future by retired General Ben Dolorfino, CSO leader Dr. Grace Rebollos and Fr. Eliseo Mercado, Jr. OMI.

Wishing all a productive imagining!



ATTY. BENEDICTO R. BACANI



APPRECIATING ARMM BASELINES: MOVING FORWARD IN THE BANGSAMORO

APPRECIATING ARMM BASELINES: MOVING FORWARD IN THE BANGSAMORO

*Prepared for the Institute for Autonomy and Governance (IAG)
by Crisanto Cayon and Kathleen Geslani*

Introduction

The Autonomous Region in Muslim Mindanao (ARMM), though widely regarded as highly imperfect, can provide an important window to the future of the Bangsamoro area and its people. It has been in existence since 1989, or almost two and a half decades ago when the 1989 Organic Act (Republic Act 6734) officially created the ARMM. It has also been subjected to two supposed revisions. The first was in 1996 when Philippine Government signed a Final Peace Agreement (FPA) with the Moro National Liberation Front (MNLF) and then most recently with the passage of Republic Act 9054 or the Expanded ARMM Law.

Over that span of time and with attempts to revise it, the ARMM Organic Law should, in paper, be a very comprehensive autonomy law. However, in reality ARMM, continues to be a poor mechanism at Muslim autonomy in the Bangsamoro areas.

This report broadly provides key baseline indicators on the ARMM in the areas of wealth and resources, and governance. It hopes to offer information on the state of autonomy in the ARMM. Some analysis

is provided in some sections but only to highlight outstanding issues and key actions that can be pursued. It is prepared for the Institute of Autonomy and Governance (IAG).

I. Wealth and Resources

Figure 1 (see page 37) shows the differences in amount based on programmed expenditures of the government versus the actual appropriated amount for years 2009 through 2013. For 2014, data is available for the programmed expenditures based on the National Expenditure Program (NEP) of the government. The executive department essentially submits the NEP to assist Congress in the review and deliberation of the proposed national budget for the legislation of the annual appropriations measure for the next fiscal year. It contains the details of the government's proposed programs. Both the Senate and the House of Representatives approves said proposed national budget through the General Appropriations Act (GAA). As of this writing, the 2014 GAA is still under deliberations of both Houses.

For 2011 and 2012, the programmed (NEP) amounts were eventually approved in the GAA as is. For the rest of the years, the GAA was a little lower than the NEP.

For 2014, the proposed budget is downloaded directly to the ARMM Regional Government and is

broken down into the following three major items: General administration and support (419,938,000); Support to operations (65,717,000); and Operations (11,398, 365,000) totaling Php19,615,029,000 billion (Source: Department of Budget and Management, 2014 National Expenditure Program).

I.1 Appropriated funds for the ARMM

There are three items that are appropriated at the national budget for ARMM. These are the Internal Revenue Allotment (IRA), Special Purpose Fund (SPF), and the Priority Development Assistance Fund (PDAF)

The Internal Revenue Allotment (IRA)

The IRA is funding downloaded directly to the local governments as its share of revenues from the national government.

Section 284 of RA No. 7160 or the Local Government Code of 1991 provides that LGUs shall have a 40% share from the national internal revenue taxes on collection of the third (3rd) fiscal year preceding the current fiscal year.

Section 286 of RA No. 7160 provides that the share of each local government units shall be released without need of any further action, directly to the provincial, city, municipal or barangay treasurer, as the case may

be, on a quarterly basis within five (5) days after the end of each quarter, and which shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose.

Section 4 of RA No. 9358 or the Supplemental Appropriation for FY 2006 provides that future local government share in the national internal revenue taxes or IRA shall henceforth be automatically appropriated.

Figure 2 (see page 38) shows the IRA Allotment for ARMM provinces in 2013. The province of Lanao del Sur got the biggest chunk given its 39 municipalities. While Figure 3 presents a comparative 5-year historical data of IRA for the ARMM from 2009-2013. It is important to clarify that the constituent LGUs classified as within the ARMM are still considered as any regular LGU as defined in the Local Government Code of 1991 and as such will continue to 'directly' receive an IRA from the national government.

The following table highlights the LGUs that received the highest and the lowest IRAs per province, in Php:

Table 1. Highest and Lowest IRA, per municipality in ARMM provinces

Province	Highest IRA	Lowest IRA
Basilan	Sumisip (95,182,770)	Tabuan Lasa(38,566,856)

Sulu	Jolo (126,153,602) Talipao (109,244,286)	Hadji Panglima Tahil/ Marunggas (26,568,872)
Tawi-Tawi	Bongao (102,962,479) Langulan (104,697,989) Sitangkai (106,645,171)	Turtle Islands (25,780,913)
Lanao del Sur	Bubong (101,934,477) Lumba-a bayabao (100,381,675)	Lumbaca- Unayan (26,247,493)
Maguindanao	Datu Odin Sinsuat/ Dinaig (125,119,542) Pagalungan (121,645,567) Parang (145,083,360)	Talitay (33,031,114)

Note that in the Figure 3 (see page 39), the allocation for the city of Isabela has already been taken out of the total IRA amounts for the province of Basilan.

The province of Lanao del Sur reached the 4 billion mark in IRA as early as 2011 (Php 4,065,932,388) but this has since been reduced slightly to the 3 billion mark in the last two years, 2012 (Php 3,882,202,548) and 2013 (Php 3,966,224,627). The province of Maguindanao also fell back to the 2B mark in 2013 (Php 2,873,151,767) after receiving over 3B IRA in 2011 (Php 3,163,327,055) and in 2012 (Php 3,045,812,359).

For 2013, the provinces in ARMM collectively received a total IRA of Php 11,266,889,331 broken down accordingly to the following amounts per province:

Table 2. Provincial ARMM IRA for 2013

BASILAN	Php 1,238,124,577
SULU	Php 1,817,769,365
TAWI-TAWI	Php 1,371,618,995
LANAO DEL SUR	Php 3,966,224,627
MAGUINDANAO	Php 2,873,151,767
TOTAL, ARMM	Php 11,266,889,331

Figures 4 and 5 (see page 40 & 41) show the 2013 IRA distribution nationally per region. With respect to regional percentages, ARMM's IRA which is 5% of the national total is in the same level of allocation as that of Regions I, IV-B, XI and slightly higher than IRAs for Regions IV-A, XII, and XIII. The Cordillera Administrative Region (CAR) received the lowest IRA at 4% (please see Figure 5).

Figure 6 (see page 42) shows the island distribution of IRA. Luzon, with 8 regions, still gets more than half of the country's IRA. Mindanao's gets a little over a quarter of the country total IRA. Mindanao's share is still significantly higher than Visayas's in relation to the contribution of the islands in terms of Gross Domestic Product (GDP).

Special Purpose Fund (SPFs)

What are SPFs? This particular fund does not show clear accountability over its use unlike other funds in the budget that are allocated for specific government

agencies. As such, SPF are not the liability of any specific and particular government agency or unit. SPF form a big chunk in the national budget that is allotted by the executive for "special" projects and programs and the disbursement and utilization of such are directly under the discretion of the President.

According to the news article in Rappler.com, SPF comprise 22% of the proposed P1.4-trillion General Appropriations Act for 2014. This fund is managed directly by the Department of Budget and Management and approved by the President. The proposed programmed SPF for 2014 amount to P310.1 billion along with P139.9 billion in unprogrammed funds, according to the group. The biggest items under the SPF include the following:

Pension and gratuity fund – P120.5 billion

Miscellaneous personnel benefits fund – P80.7B

Budgetary support to government corporations – P46.7 billion

Allocation to local government units – P19.7B

The proposed pork barrel, or priority development assistance fund, is P25.24 billion. This is 8% of the proposed SPF.

In a World Bank report, the Philippine government was consistently counselled on reducing the amount allocated for SPF but the allocation trend continued to rise. Data from the DBM shows a continuous rise from 45% in 2008, 50% in 2009 to 57% budget for 2010.

Figures 7 and 8 (see page 43 & 44) show the levels of priority poverty reduction projects funded out of the SPF. The SPF for ARMM is ranked second on having the biggest chunk of the budget after NCR with 9%.

Sectorially in the ARMM (see Figure 9 on page 45), projects in the agriculture sector gets the biggest chunk of the SPF pie at 61%. These agriculture projects are mostly farm to market roads as well as agricultural inputs. There is also a significant percentage on projects being administered by the DILG on water and water-related activities and projects. The third significant contribution is on the Social support particularly on livelihood program and activities.

Priority Development Assistance Fund (PDAF)

The PDAF or the Priority Development Assistance Fund is one category under the SPF. The PDAF or more popularly known as pork barrel is a lump sum appropriation in the annual General Appropriations Act to fund the priority development programs and projects of the government. It is intended for development

projects and social services to be implemented in jurisdictions of legislators (congressional districts). However, its lack of utilization transparency because it is given in bulk has elicited the common notion of political patronage and deemed a recurring source of corruption in the public sector.

Figure 10 (see page 46) shows the 2013 PDAF releases per Region. NCR gets the biggest of the pie with 13% of the total PDAF releases, while ARMM gets the meager 4% of the total appropriation.

In terms of actual amount figures, ARMM received a measly 289,487,998 million in 2013 (see Figure 11 on page 47).

Of this total PDAF amount for ARMM (see Figure 12 on page 48), Basilan gets the biggest share at 35% (roughly 101.3 million) while Tawi-Tawi received the least amount equivalent to 5% (close to 14.5 million)

The cost of 289,487,998 million in PDAF for ARMM in 2013 supports 234 projects distributed among the 5 ARMM provinces (see Figure 13 on page 49).

Figure 14 (see page 50) shows the 5-year comparison of PDAF releases (2009-2013) per region. Interestingly, the following trends can be observed:

- a) 2012 is the peak of PDAF releases for majority

of the regions.

b) 2013 is when there is an overall decline of PDAF releases across the regions.

c) ARMM perennially receives among the lowest PDAF levels together with two other Mindanao regions, IX (Zamboanga Peninsula) and XII (SOSCKSARGEN) as well as with the CAR (Cordillera Administrative Region) and Region IV-B (MIMAROPA).

I.2 Key issues on resource generation and budget resources, looking through Mindanao and ARMM figures (source: Budget Expenditure and Source of Financing, DBM)

I.2.1 Table 3 shows that most Mindanao LGUs are unable to generate local incomes, hence remain highly dependent on IRA.

Table 3. Percentage of Income Sources for Mindanao LGUs

Income Source	Provinces	Municipalities	Cities
Local Sources	12.7	10.9	25.6
Tax Revenue	21.1	41.1	63.9
Shares from National Tax	64.2	74.0	56.2
IRA	64.1	73.6	55.9

I.2.2 Mindanao LGUs consistently have surpluses; they have not maximized use of their budget allocations (See Table 4 on page 51).

Notably, the municipalities in ARMM have combined for more almost half (43.3%) of the surplus between 2008 and 2012 spending only roughly 4.3M out of the total 7.6M income. In the same period, the provinces and the cities in ARMM also underspent by almost 20% of their total incomes.

I.2.3 Despite receiving adequate allocations, the ARG has not been allowed to control and manage these allocations:

a. The ARG budget has been steadily increasing but this is generally due to mandatory increase (salary adjustment, inflation, etc.) (see Figure 15 on page 52)

b. The P8.5B ARMM Stimulus Package provides the opportunity for more NGAs to allocate sector budgets to ARMM

Table 5. Stimulus Package for ARMM, 2013

	2011	2012
New Entrants (7) (e.g. DSWD, DepEd, DPWH)	0	8,512
Mainstays (9) (e.g. SUCs, DOTC, DILG)	2,056	3,004

Total Budget from Departments and others	2, 056	11, 516
SRG Budget	11, 853	12, 469
Over - all Total	13, 909	23, 985

Unfortunately, the ARG was not tasked directly to manage the Package. Once again, these highlight the state of fiscal autonomy in a supposed autonomous government. In the true spirit of autonomy, it will benefit the ARG if it will be made to uphold fiscal autonomy presumably as a result of the national government reducing its fiscal grip on ARMM. These can be addressed by:

1. Tightening systems and procedures,
2. Improving accountability mechanisms, and;
3. Building capacity.

ARMM, despite being ‘autonomous’ is completely dependent on the national government for its funding. Not all funds made available to ARMM are within the direct control of the regional government (4% only)

I.2.4 What ARMM controls according to the law:

1. Control over strategic minerals: Article XII, Section 5, RA 9054 states that the regional government has supervision and control over mines and minerals and other natural resources within the autonomous region

(70-30% in favor of the ARMM viz national government).

2. Share in the income of strategic minerals: 50 percent of the revenues, taxes, or fees derived from the use and development of the strategic minerals shall accrue and be remitted to the regional government within 30 days from the end of every quarter of every year. The other 50 percent shall accrue to the central government.

II. Governance and Power Sharing

II.1 Major Challenges (Source: 1st Mindanao Development Forum, 2012 Resource Person:Usec Austere Panadero)

- Weak law enforcement
- People empowerment
- Ineffective LGU governance
- Corruption including natural resources management
- Political and electoral systems reforms

II.1.1 Weak law enforcement: According to the Police Regional Office - ARMM (PRO-ARMM), for the period covering August 2011, the office registered an increased total Crime Volume of 121 cases compared to 66 crimes during the same period in 2010.

As itemized by PRO-ARMM, these crimes are as follows:

Table 6. Crime Recorder Incidents, January-August 2011

Murder	24
Homicide	6
Physical Injury	29
Rape	2
Robbery	10
Theft	4
Carnapping	9
TOTAL	121

For the same period, PRO-ARMM has recorded a total number of 10 Heinous Crimes. During the period covered, there had been 2 personalities arrested with Warrant of Arrests.

Table 7. Index vs. Non-Index Crimes, January-August 2011

Total Index Crime	84
Total Non-Index Crime	37
Total Crime Volume	12129
Average Monthly Crime Rate	3.32

II.1.2 People Empowerment: About 15% of the ARMM constituency are at a disadvantage and unequal before the law

II.1.3 Absence of enabling law: This will recognize the IP's rights and social justice as embodied in the

IPRA Law, the 1997 Constitution, and other existing international law for IPs. Marginalized ethnic groups in ARMM have not been able to fully enjoy and exercise the fundamental rights as stipulated in the 1997 Indigenous Peoples' Rights Act (IPRA).

II.1.4 Poverty Incidence. Luzon has the highest share in the magnitude of poor at 38% owing to its large population, Mindanao in the second with 35%, and Visayas has the lowest at 27%. Figure 16 (see page 53)

- o 2012, ARMM has the lowest share of 0.8 percent of the country's GDP
- o In terms of share to the national GDP growth, ARMM contributes the lowest among the 17 regions with a 0.01 percentage point contribution
- o ARMM has the lowest per capita GRDP among the regions at Php 14,321
- o Lowest capita index relative to the national average, the ARMM is at the bottom with 21.7

Table 8. Gross Regional Domestic Product, 2011 and 2012 Growth Rates, in Percent (at constant 2000 prices) - NSCB. see Figure 17 on page 54

	REGION	2010-11	2011-12
	PHILIPPINES	3.6	6.8
NCR	METRO MANILA	3.1	7.3
CAR	CORDILLERA	1.3	1.0

I	ILOCOS	2.4	5.2
II	CAGAYAN VALLEY	5.6	5.2
III	CENTRAL LUZON	7.1	6.3
IVA	CALABARZON	1.7	7.0
IVB	MIMAROPA	3.1	4.2
V	BICOL	1.9	7.1
VI	WESTERN VISAYAS	6.2	7.5
VII	CENTRAL VISAYAS	6.8	9.3
VIII	EASTERN VISAYAS	2.1	(6.2)
IX	ZAMBOANGA PENINSULA	0.1	12.4
X	NORTHERN MINDANAO	5.8	7.4
XI	DAVAO REGION	3.7	7.4
XII	SOCCSKSARGEN	5.3	8.1
XIII	CARAGA	8.5	10.6
ARMM	MUSLIM MINDANAO	(0.3)	1.2

Source: National Statistical Coordination Board (NSCB)

Table 9. First Semester Per Capita Poverty Threshold and Poverty Incidence among Families, by Region and Province: 2006, 2009 and 2012

	Per Capita			Poverty Incidence		
	Poverty Threshold (PhP)			among Families (%)		
	2006	2009	2012	2006	2009	2012
PHILIPPINES	6,703	8,448	9,385	23.4	22.9	22.3
Luzon						
NCR	7,718	9,456	10,084	2.8	3.7	3.8
CAR	7,031	8,492	9,734	25.6	22.7	22.6

Region I	7,086	8,729	9,224	23.3	18.5	16.7
Region II	6,984	8,566	9,503	22	22.3	19.8
Region III	7,334	9,251	10,121	13	12.5	12.2
Region IV-A	6,611	8,481	9,601	10.1	10.8	11.2
Region IV-B	6,238	7,751	8,527	34.1	30.6	28.4
Region V	6,618	8,420	9,022	36.2	36.5	34.1
Visayas						
Region VI	6,421	8,153	8,957	27.5	26.7	24.7
Region VII	7,269	8,648	9,296	35	31.6	28.8
Region VIII	6,266	8,107	8,989	33.3	36.2	37.2
Mindanao						
Region IX	6,159	8,053	8,881	41	41.5	36.9
Region X	6,450	8,456	9,604	35.1	35.4	35.6
Region XI	6,721	8,547	9,927	26.9	27.3	28.6
Region XII	6,619	8,126	9,243	34.7	31.1	37.5
CARAGA	6,996	8,905	9,779	43.3	43.3	34.1
ARMM	6,319	8,257	10,027	43	42	46.9

Table 9 (above) and Figure 18 (see page 55) show that ARMM's poverty threshhold per capita and per family continues to climb in reference to the periods 2006, 2009, and 2012. ARMM, moreover, has one of the worsening rural poverty rates with only 4%.

Figure 19 (see page 56). Top 5-Bottom 5 Provinces in Life Expectancy, 2009

The bottom province, Tawi-Tawi, has a life

expectancy 22.8 less than the top province, La Union. The bottom 4 of the 5 of the Life expectancy at birth belongs to the ARMM: Lanao del Sur, Maguindanao, Sulu and Tawi-Tawi.

Figure 20 (see page 57). Top 5-Bottom 5 Provinces in Schooling, 2009

On average, adults in the top 5 provinces have 10.1 years of schooling, 73% more than adults in the bottom 5 provinces. Three (3) of the bottom 5 provinces in relation to the mean years of schooling in 2009 are in ARMM.

Figure 21 (see page 58). Top 5-Bottom 5 Expected Years of Schooling, 2009

Based on the figure, Maguindanao's school-age children will only finish primary education and discontinue with secondary/high school education.

Table 10. Largest gainers and losers: Education Index, 1997-2009

Education Index	1997	2009
Largest Gainers		
Batanes	0.943	1.000
Benguet	0.954	0.988
Bohol	0.736	0.834
Siquijor	0.796	0.868
La Union	0.846	0.897
Eastern Samar	0.734	0.823

Nueva Vizcaya	0.830	0.881
Lanao del Norte	0.825	0.878
Bataan	0.857	0.900
Camiguin	0.884	0.917
Largest Losers		
Lanao del Sur	0.836	0.782
Sulu	0.735	0.601
Zamboanga del Norte	0.818	0.717
Maguindanao	0.789	0.667
Tawi-Tawi	0.823	0.716

Four (4) out of 5 lowest Education Index belong to ARMM again.

Figure 22 (see page 59). Top 5-Bottom 5: Real, Per Capita Income/Per capita Purchasing Power (PPP, 2009).

The real per capita purchasing power of a 'top 5' province is almost 3x more than the real per capital purchasing power of a 'bottom 5' province. Again, three (3) of the bottom 5 real PPP income belong to the ARMM region.

Table 11. Largest gainers and losers: Income Index, 1997-2009

Income Index	1997	2009
Largest Gainers		
Benguet	0.057	0.714
Biliran	0.192	0.412
Catanduanes	0.201	0.350

Nueva Vizcaya	0.356	0.472
Cagayan	0.226	0.356
Quirino	0.255	0.376
South Cotabato	0.223	0.343
Occidental Mindoro	0.170	0.266
Aurora	0.270	0.354
Leyte	0.210	0.300
Largest Losers		
Basilan	0.314	0.182
Laguna	0.559	0.474
Rizal	0.631	0.516
Tawi-Tawi	0.364	0.078
Batanes	0.890	0.690

Most indices always include any one of the provinces of Minndanao as one of the biggest losers. In this case Basilan and Tawi-tawi are again included in the lowest income index.

Figure 23 (see page 60). Bottom 10 provinces, HDI, 2009

Nine (9) out of ten (10) provinces with the lowest HDI levels are from Mindanao. On average, the HDI of the top 10 provinces is twice the HDI of the bottom 10 provinces. In this graph, 4 provinces belong to the ARMM.

Table 12. Provinces with a positive difference leverage their resources relatively well for human development

HDI rank higher than per capita income rank	Per capita income rank higher than HDI rank
---	---

Albay	+12	Ifugao	-16
Misamis Occidental	+12	Basilan	-10
La Union	+9	Quirino	-7
Bohol	+ 8	Palawan	-7
Camarines Sur	+7	Kalinga	-7
Camiguin	+7	Catanduanes	-7
Ilocos Norte	+7	Camarines Norte	-6
Nueva Ecija	+7	Antique	-6
Iloilo	+6	Zamboanga del Sur	-5
Sorsogon	+6	Lanao del Sur	-5

Table 13. Largest losers due to inequalities, 2009

Province	HDI 2009	IHDI 2009	%
Sulu	0.276	0.064	76.88%
Maguindanao	0.312	0.083	73.44%
Tawi-Tawi	0.322	0.089	72.45%
Zamboanga Sibugay	0.367	0.113	69.19%
Agusan del Sur	0.368	0.115	68.59%
Davao Oriental	0.37	0.119	67.74%
Sarangani	0.386	0.126	67.46%
Zamboanga del Norte	0.399	0.13	67.37%
Lanao del Sur	0.432	0.15	65.21%
Masbate	0.422	0.151	64.21%

Table 14. Proportion of population with access to electricity by region, 1985 to 2009, Proportion of population (%)

Regions	1985	1988	1991	1994	1997	2000	2003	2006	2009
Philip-pines	58.7	72.2	62.4	66.4	70.7	75.9	77	82	85.6
NCR	97.9	91.9	96.6	98.6	99.6	99.3	99.3	97.7	98.9
CAR	40.4	67.4	48.7	56.4	55.7	67.3	72.4	78.8	83.9

I - Ilocos	69.1	84.9	72.2	74.4	75.9	83.9	85.6	90.3	93.7
II - Cagayan Valley	56.9	80.1	58.4	62.3	62.8	72.2	73.8	80.9	87.1
III - Central Luzon	81.5	96.2	85.7	86.2	91.3	93.4	93.4	94.5	95.1
IVA - CALA-BAR-ZON	76.6	79.7	83.6	87.9	90.2	94	92.5	92.3	94
IVB - MIMA-ROPA	19.5	74.2	30.6	34.5	44.5	50.7	53.9	62	70.4
V - Bicol	46.5	61.9	44.9	51.7	58.5	61.5	64.5	72.1	77.8
VI - Western Visayas	35.4	54.1	44.8	53.8	58.3	64.1	68.5	76.9	81.6
VII - Central Visayas	41.5	57.3	50.1	56.9	59.6	67.1	70.4	78.5	80.7
VIII - Eastern Visayas	28.3	60.8	36.4	45	47.9	56.2	61.5	73.8	84.2
IX - Zamboanga Peninsula	43.9	45.5	47.2	48.4	48.8	53	56.1	65.9	70.1
X - Northern Mindanao	56	69.7	54.4	59.6	64.5	69.9	68	76.2	81.2
XI - Davao	48.6	67.2	51.6	53	64.8	72.8	68.6	75.8	78.3

XII - SOC- CSK- SAR- GEN	39.9	77.3	46.2	50.9	61.3	66.2	64.6	69.2	76
XIII - Caraga	58.5	77.3	54.5	54	57.7	66	65.6	79.7	84.1
ARMM	32	21.4	22.2	25.2	35.4	39.7	36.7	49.9	56.6

ARMM has the lowest percentile and lowest growth in proportion of population with access to potable water by region since 1985 up to 2009. Access to water in proportion to population have not even reached near 50%

Based on these data, the following Interventions/ Reforms are considered most important to Mindanao/ ARMM:

- o Accessible, responsive justice system
- o Capacitating LGU on governance
- o Citizen's participation in governance
- o Transparency and e-governance (LGUs)
- o Rationalization of government programs (and
- o political will in implementation)
- o Moral recovery program; Integration of
- o culture and religious sensitivity

II.1.5 Inconsistencies in autonomy laws

a. Autonomous Region in Muslim Mindanao 1989 Organic Act (Republic Act 6734) – only 4 of 13 provinces ratified and which became part of ARMM. These are Tawi-Tawi, Sulu, Lanao del Sur and Maguindanao

b. 1996 GRP-MNLF Accord: the Final Peace Agreement (FPA) Never fully implemented; broke down in 2001 MNLF Chairman Misuari led an uprising in Sulu (released December 2009)

c. 2001 Republic Act 9054 or the Expanded ARMM Law – is rejected by the MNLF as it watered down the provisions of the 1996 FPA; in another plebiscite, Basilan became the 5th province, and Marawi City was added

d. Devolution: Discrepancies in interpretation and implementation of devolution provisions between and among the Philippines' National Local Government Code of 1991, RA 7160, and ARMM's Muslim Mindanao Autonomy (MMA) Act 25:

o health, agriculture, social welfare, environment functions: not devolved to constituent LGUs but remain with ARG

o RA 7160 (Sec. 17) vs. (MMA) Act 25: the latter is silent on devolution of key basic services

o Annual Budgets for PS and MOOE are channeled from the GAA to the ARMM Regional Government (ARG)

o Up to 85% of entire Regional Budget go to PS which justifies ARG failure to download funds for these services to constituent LGUs despite clear provisions

o The LGUs within ARMM, as in all LGUs

nationwide, are provided with Internal Revenue Allotment primarily to fund devolved functions. However because of misperception, basic services are not appropriately funded in ARMM LGUs

o Non appointment of Devolved Public Officials by LGUs: In practice, as a general rule, ARMM municipalities, except in the province of Basilan and Marawi, do not appoint the mandatory health officers nor establish/maintain such office. ARMM provinces such as Tawi Tawi, Sulu, and Maguindanao do not appoint the mandatory health, agriculture and social welfare and development officers and do not establish/maintain the offices of health, agriculture, social welfare and environment.

e. Governance Relationships

Between the Regional Government and Local Government Units

o Political: The Regional Governor exercises general supervisory powers over provincial governors and city mayors;

o Economic: LGUs receive from ARMM 35% of revenues collected by the ARG, shared among them in percentage terms as follows: 45/35/20 among provinces, municipalities and barangays and 50/50 between cities and barangays.

Between the Regional Government and the National Government

o Executive

- a. Section 16 of the Constitution states that the President "shall exercise general supervision over autonomous regions to ensure that the laws are faithfully executed."
- b. Funds come from the national government
- c. Manila interference in ARMM political affairs, candidates in the regional polls anointed by Malacañang

o Legislative

- a. Regional Local Government Code not fully implemented, has not been updated; LGUs still use the national LGC
- b. enacted local revenue code is not fully implemented
- c. powers of the Regional Legislative Assembly clipped by SC in Shariff Kabunsuan case

o Judiciary

- a. The law provides for the establishment of 51 Shari'a Circuit Courts but only 25 SCCs are operational, providing judicial services to territorial jurisdictions originally intended to be served by the 51 SCCs

Comparative figures for ARMM

■ General Appropriations Act ■ National Expenditure Program

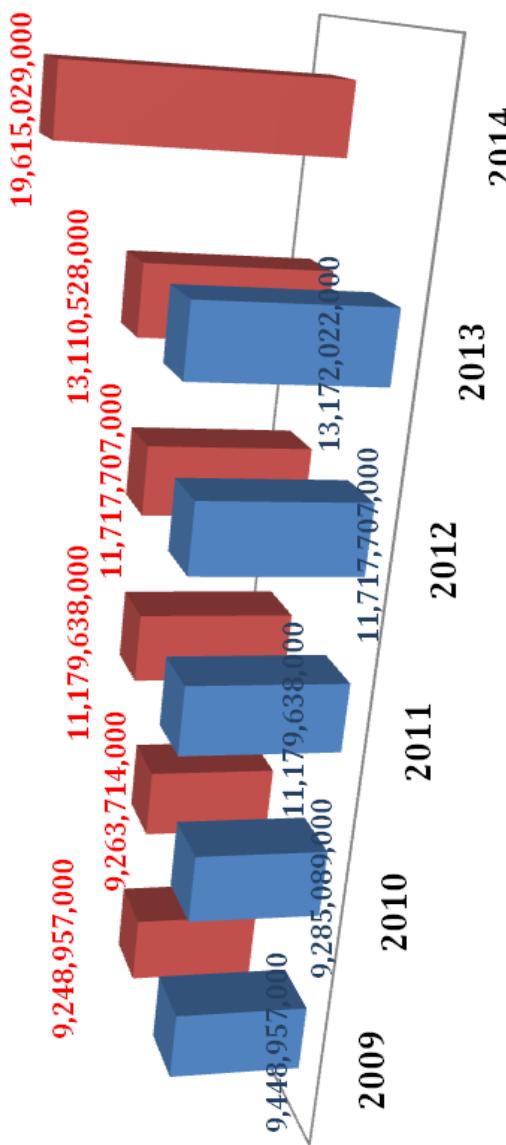


Figure 1. Proposed National Expenditure Program and the Appropriated Budget, 2009-2014

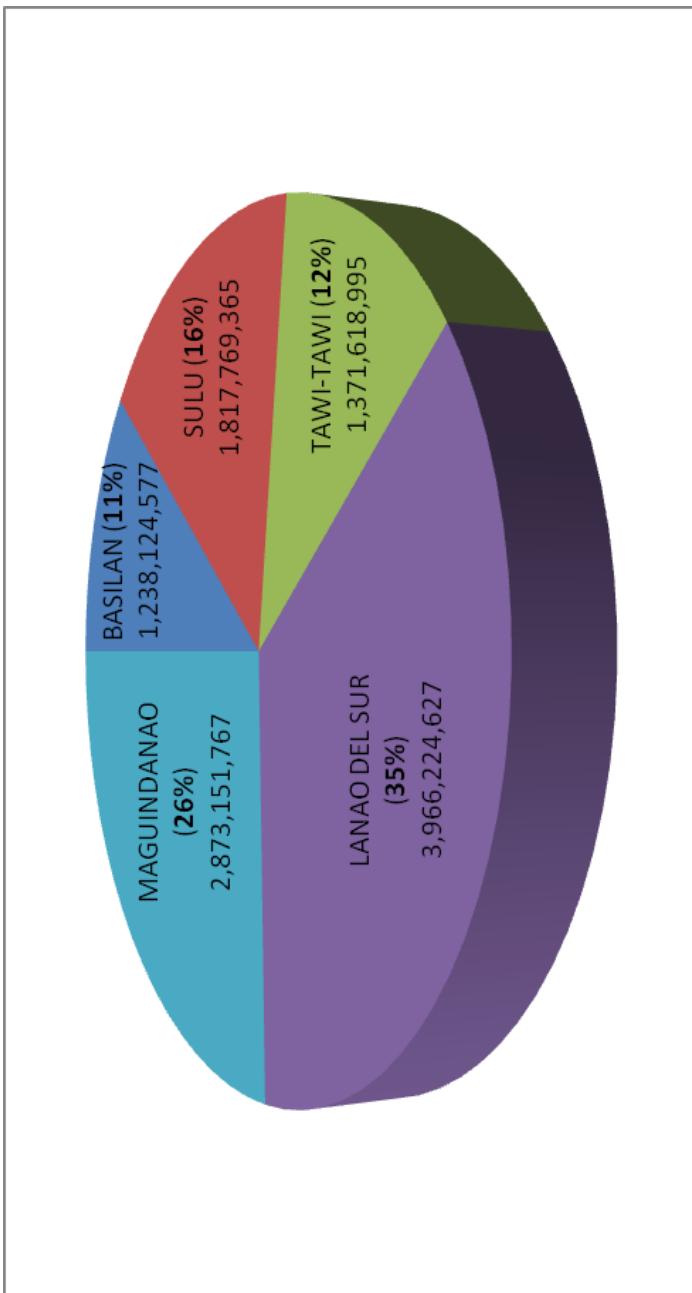
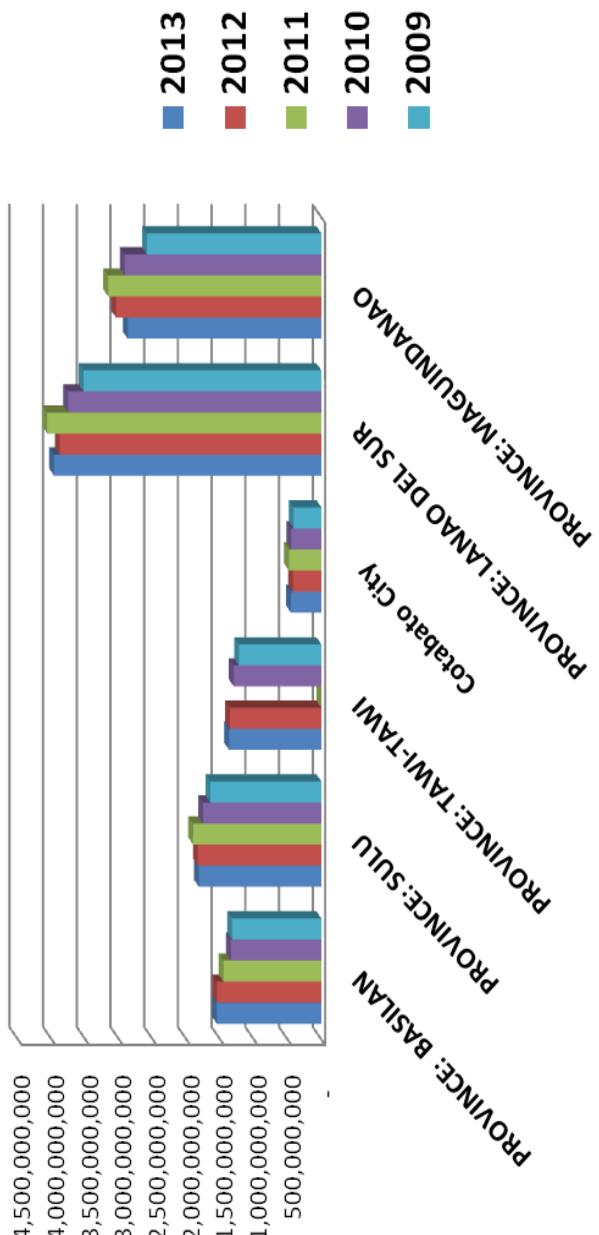


Figure 2. Total Internal Revenue Allotment (IRA) for local government units in the ARMM, 2013
summarized per province, in percentage and in actual peso (Php) figures

Figure 3. Internal Revenue Allotment for ARMM 2009-2013



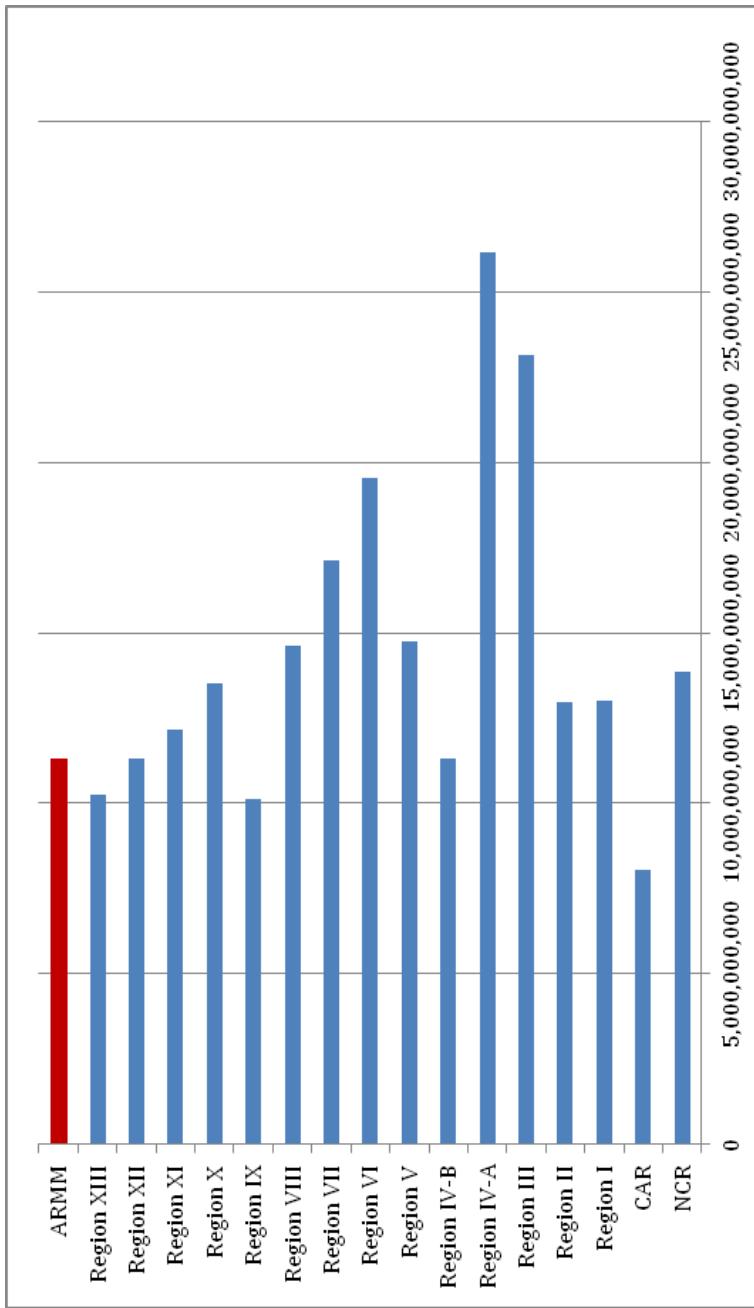


Figure 4. Chart shows the competitive 2013 IRA appropriation of the ARMM

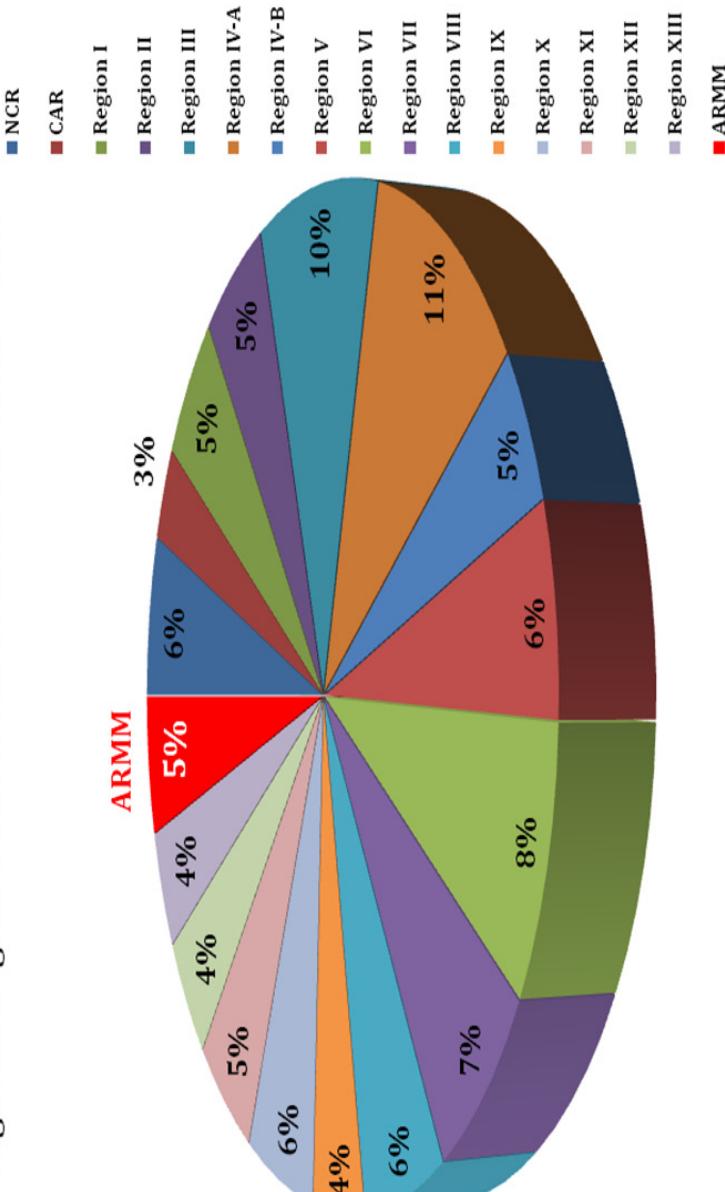
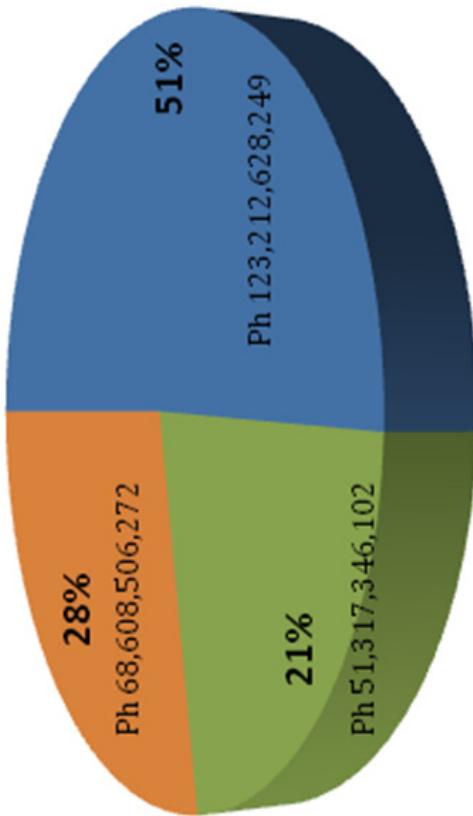
Figure 5. Regional Internal Revenue Allotment for 2013

Figure 6. IRA Distribution per Island

■ Luzon (8 Regions) ■ Visayas (3 Regions) ■ Mindanao (7 Regions)



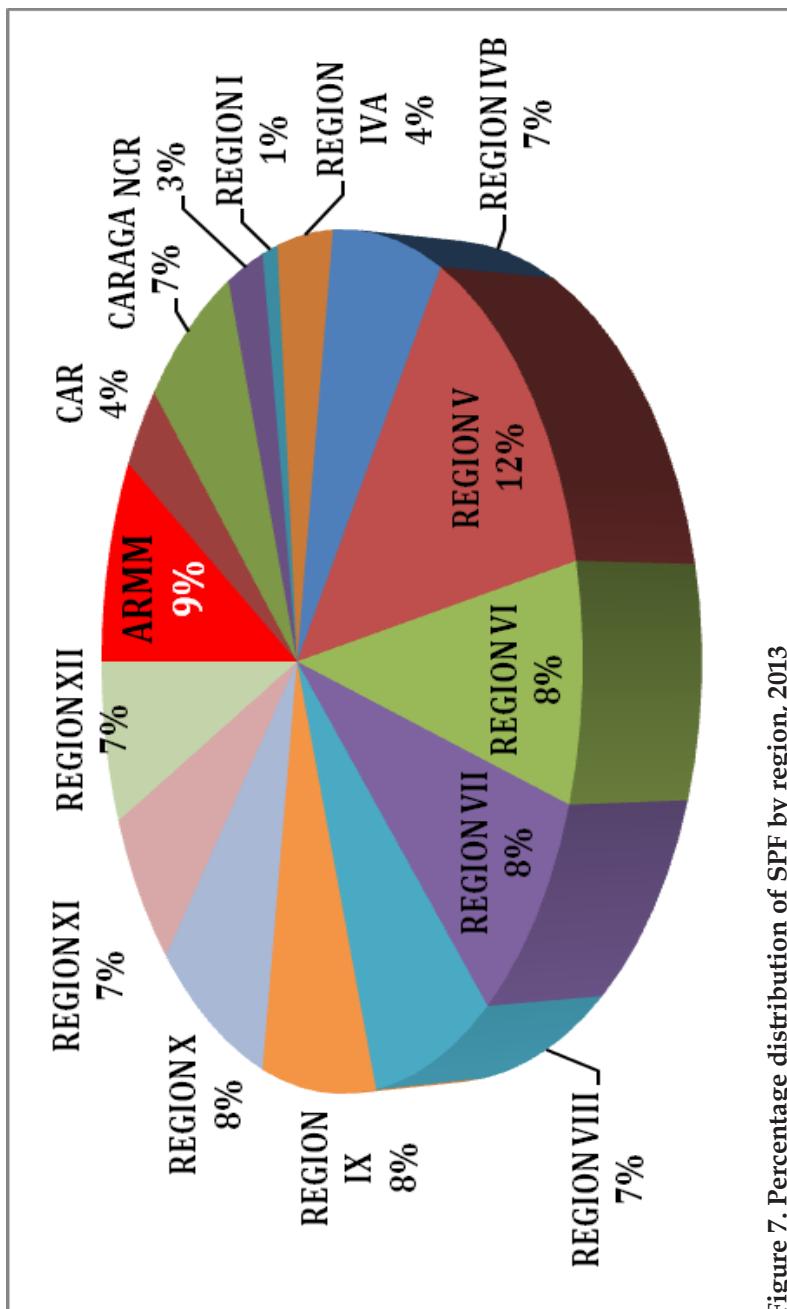


Figure 7. Percentage distribution of SPF by region, 2013

Figure 8. LGU's List of Priority Poverty Reduction Projects 2013

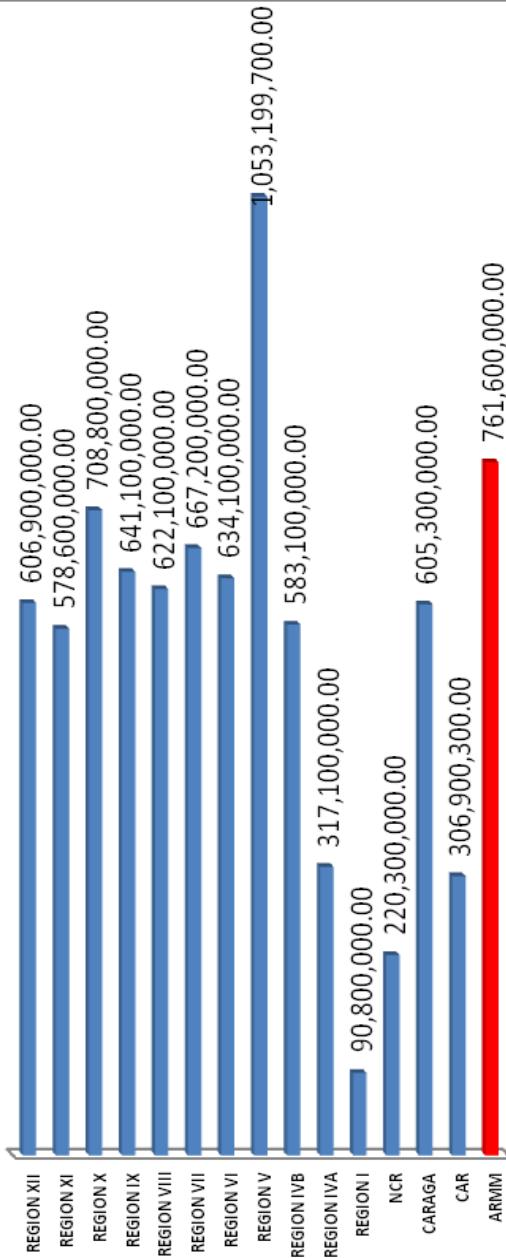


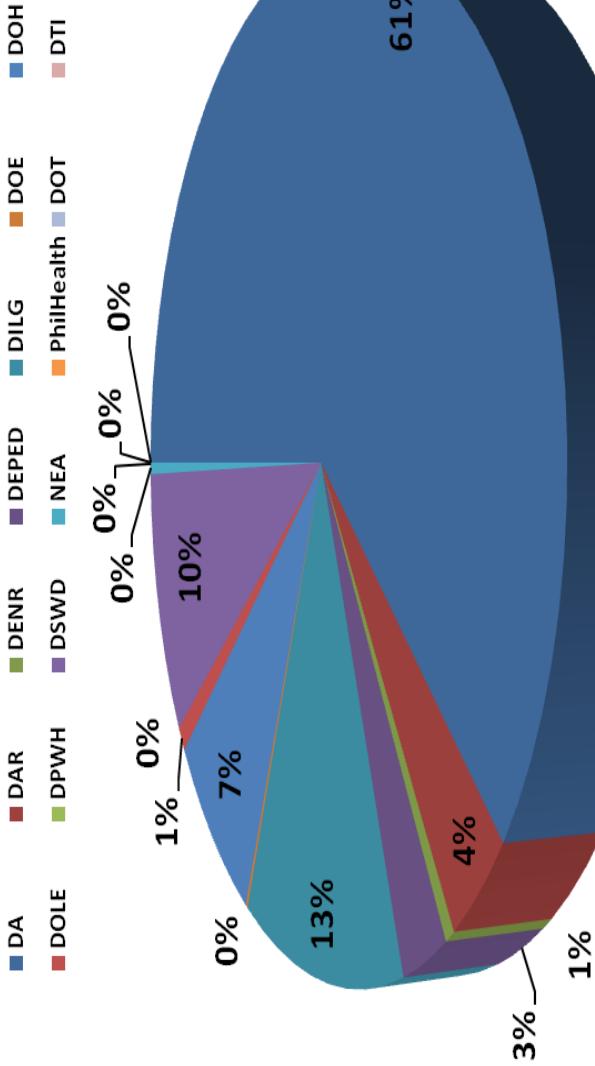
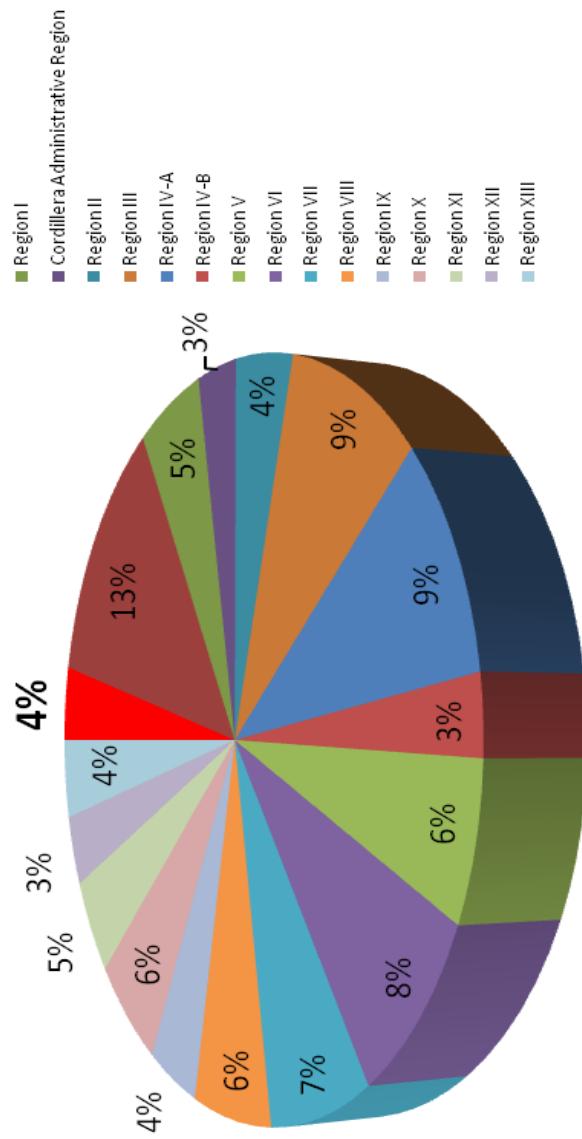
Figure 9. ARMM Priority Poverty Reduction Projects in 2013

Figure 10. PDAF Releases by Region for 2013



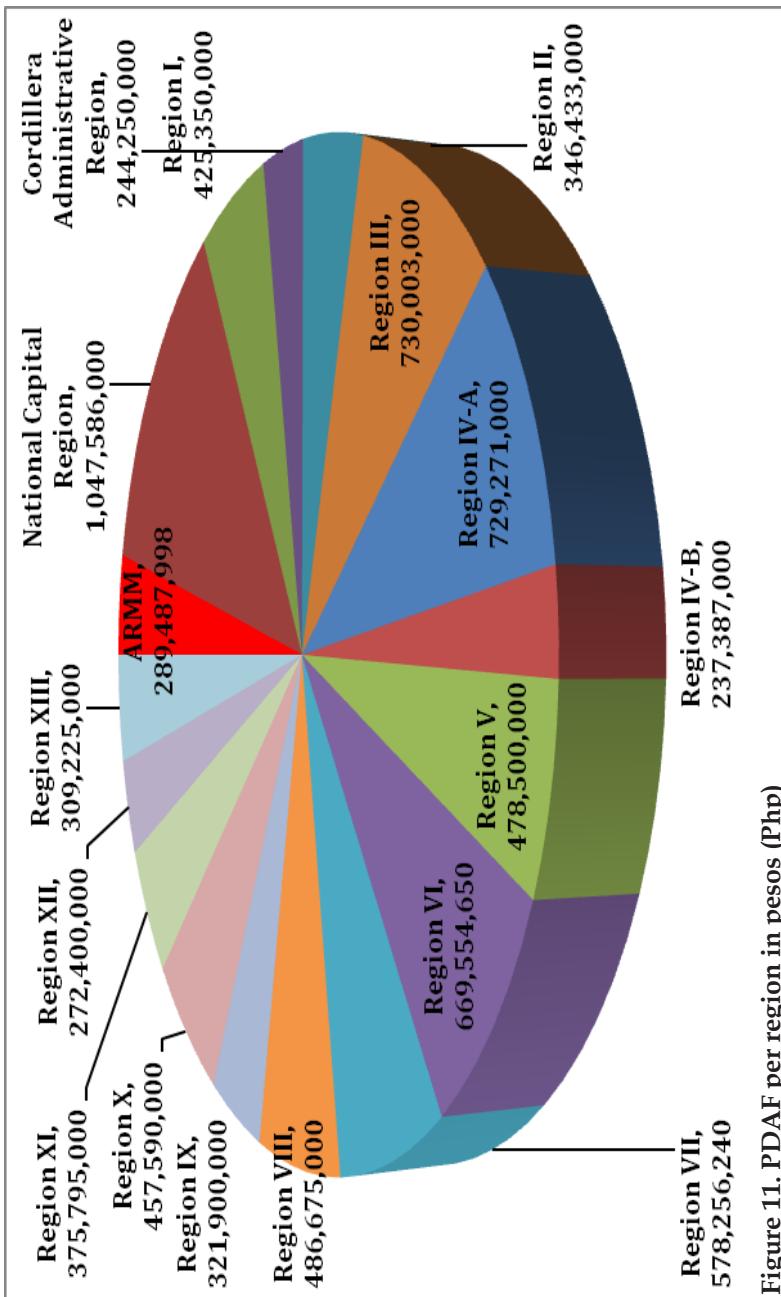


Figure 11. PDAF per region in pesos (PHP)

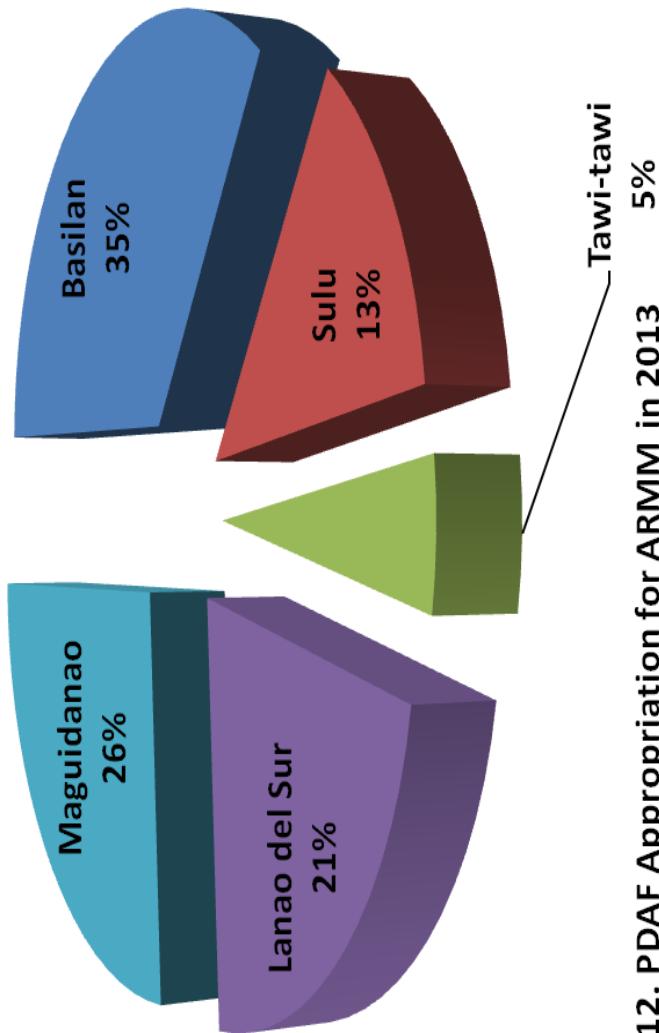
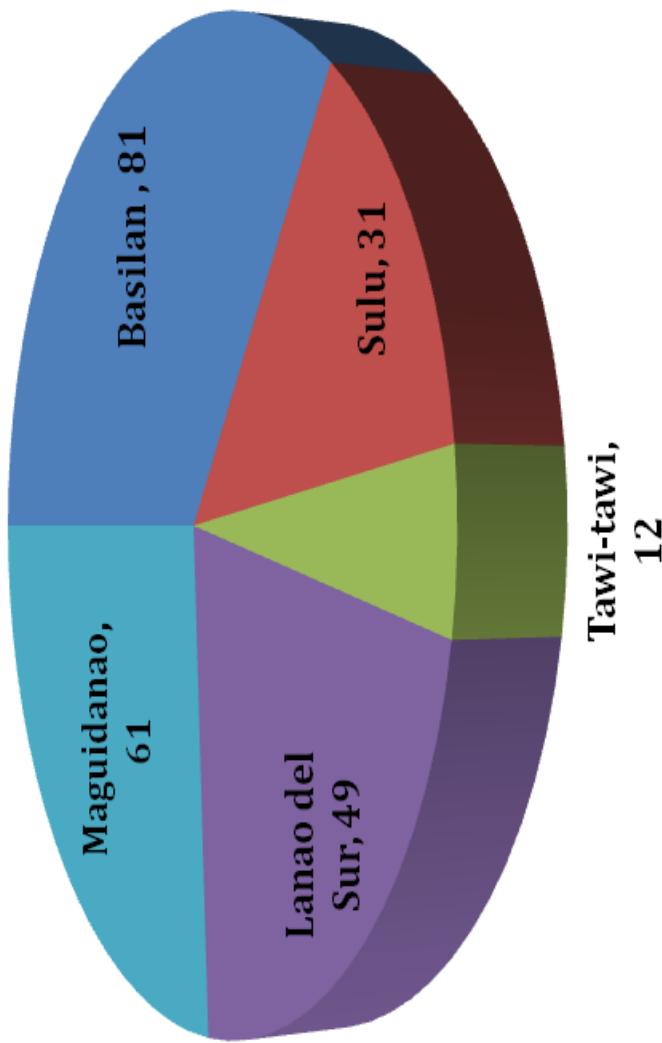


Figure 12. PDAF Appropriation for ARMM in 2013

Figure 13. Distribution of the 234 projects supported under PDAF in ARMM, 2013



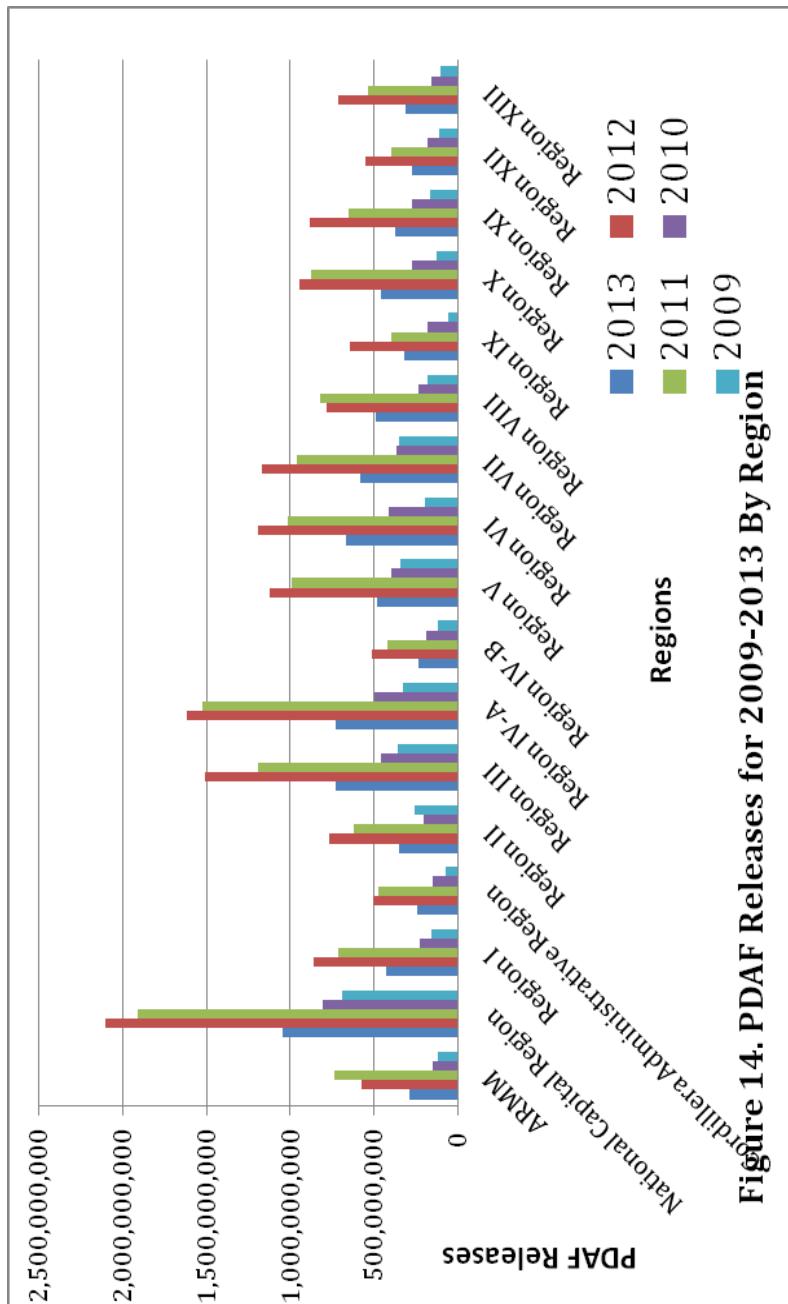


Figure 14. PDAF Releases for 2009-2013 By Region

Table 4. Income vs. Expenditures, Mindanao regions 2008-2012, in Php Million

Region	IX	X	XI	XII	XIII	ARMM
Provinces in Mindanao						
Income	3,173	5,763	4,520	3,884	3,345	4,464
Expenditures	2,650	4,482	2,834	3,448	3,058	3,692
Surplus (Deficit)	523	1,281	1,687	436	287	772
% of Income	16.5	22.2	37.3	11.2	8.6	17.3
Municipalities in Mindanao						
Income	4,224	5,134	4,844	5,422	5,649	7,665
Expenditures	3,755	6,343	3,505	4,550	3,896	4,350
Surplus (Deficit)	469	-1,208	1,339	872	1,752	3,315
% of Income	11.1	-23.5	27.6	16.1	31	43.3
Cities in Mindanao						
Income	4,345	6,560	7,244	4,811	2,223	515
Expenditures	3,536	5,645	6,692	2,823	2,003	408
Surplus (Deficit)	808	915	552	1,988	220	107
% of Income	18.6	13.9	7.6	41.3	9.9	20.8

Source: Budget Expenditure and Source of Financing, 2008 - 2012

Figure 15. ARG Budget, 2007-2012

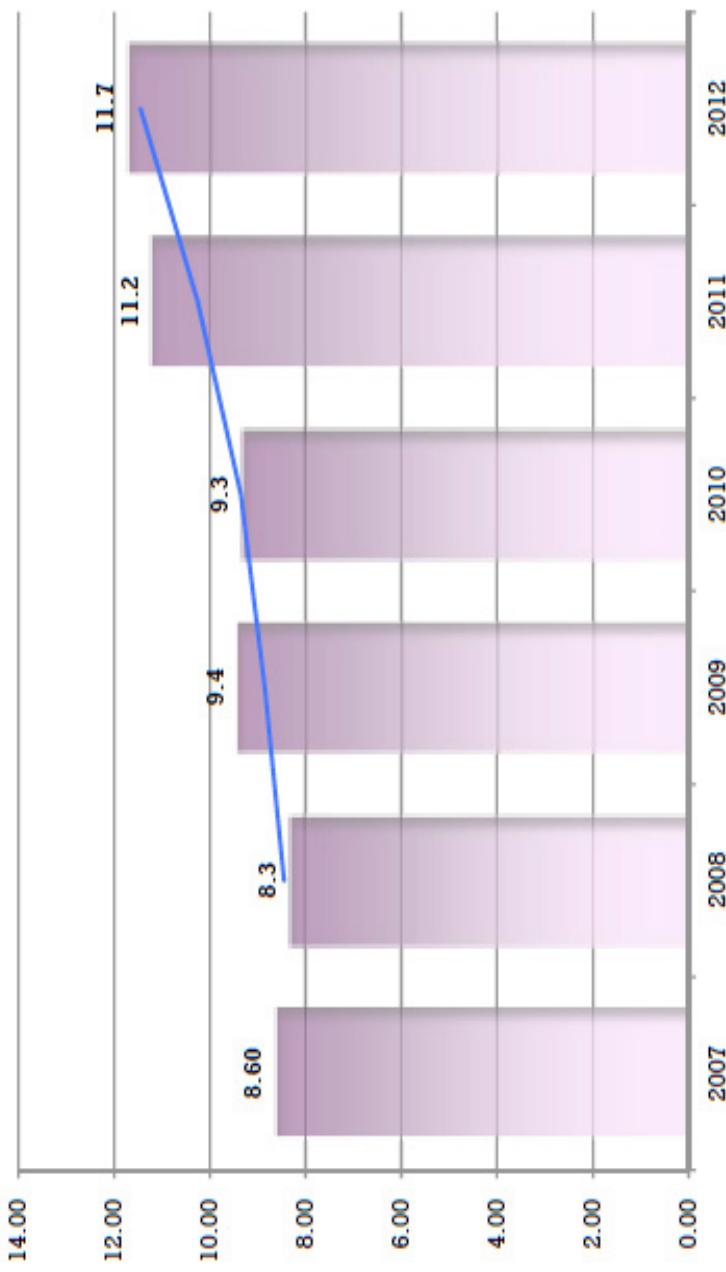


Figure 16. Poverty Incidence Economic Growth

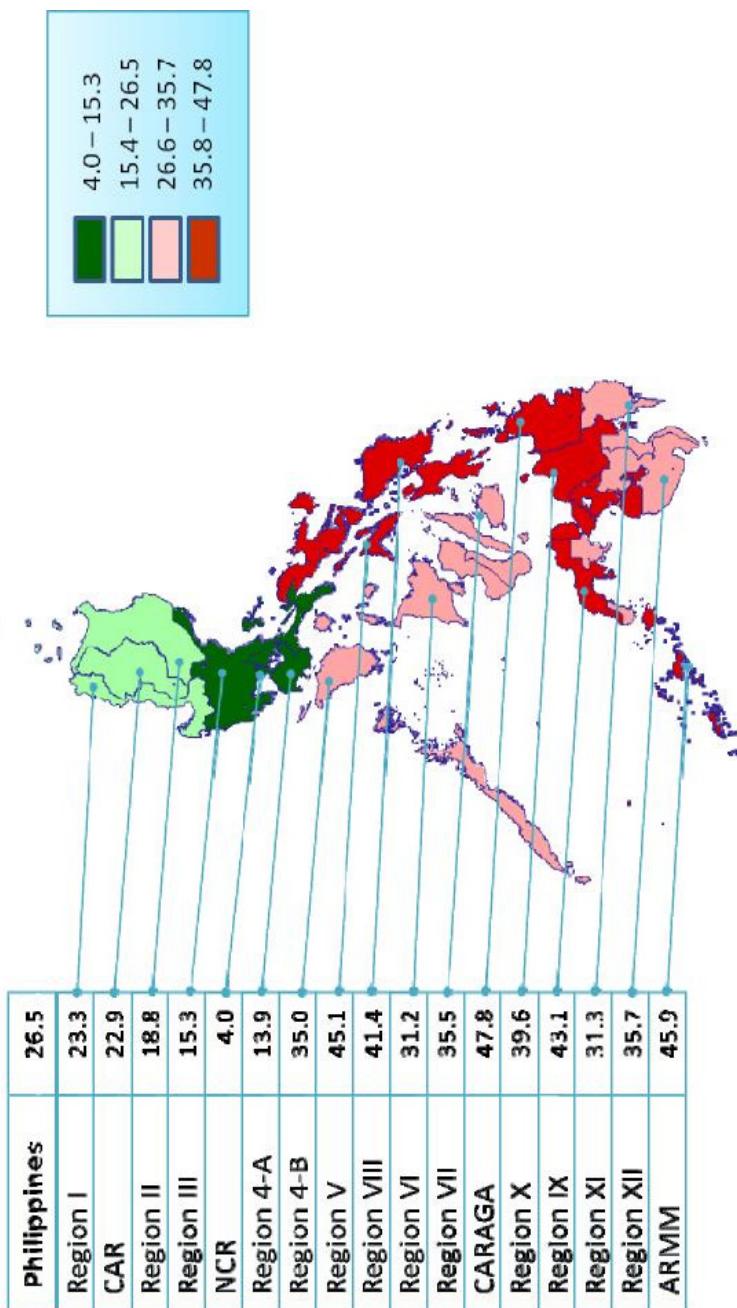


Figure 17. Growth Rates of Regional Economies: 2010-11 and 2011-12, at Constant 2000 Prices

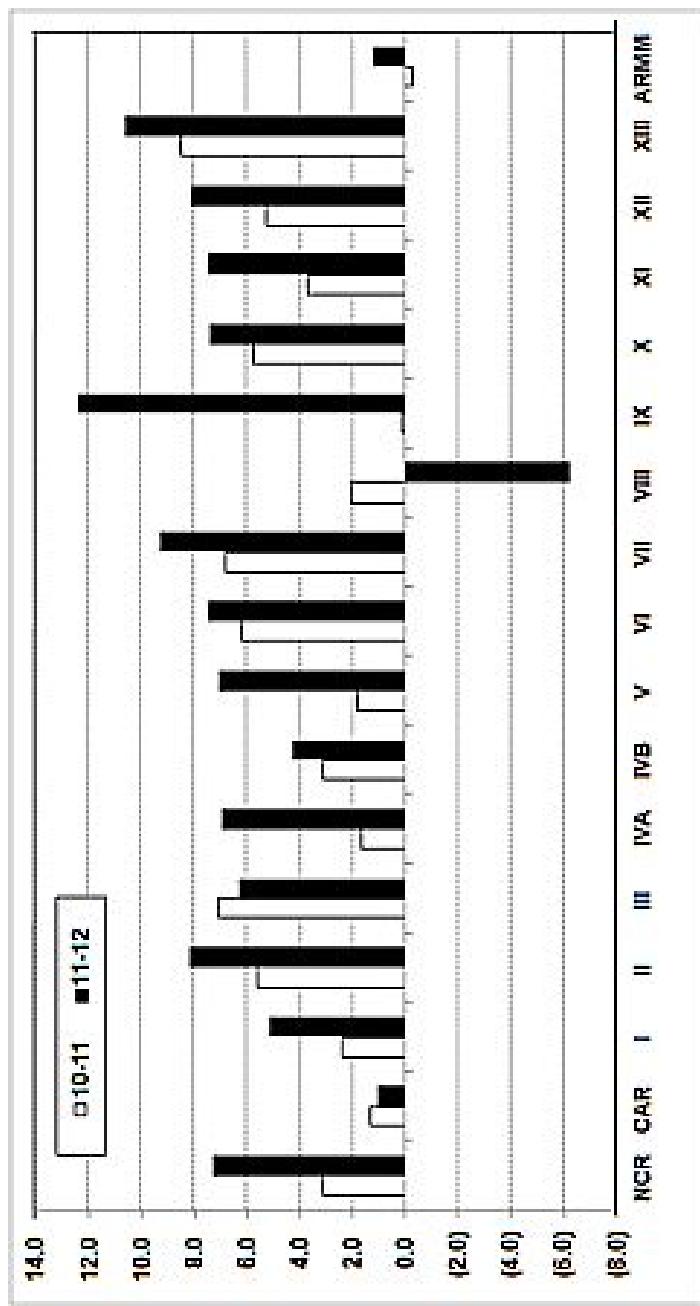
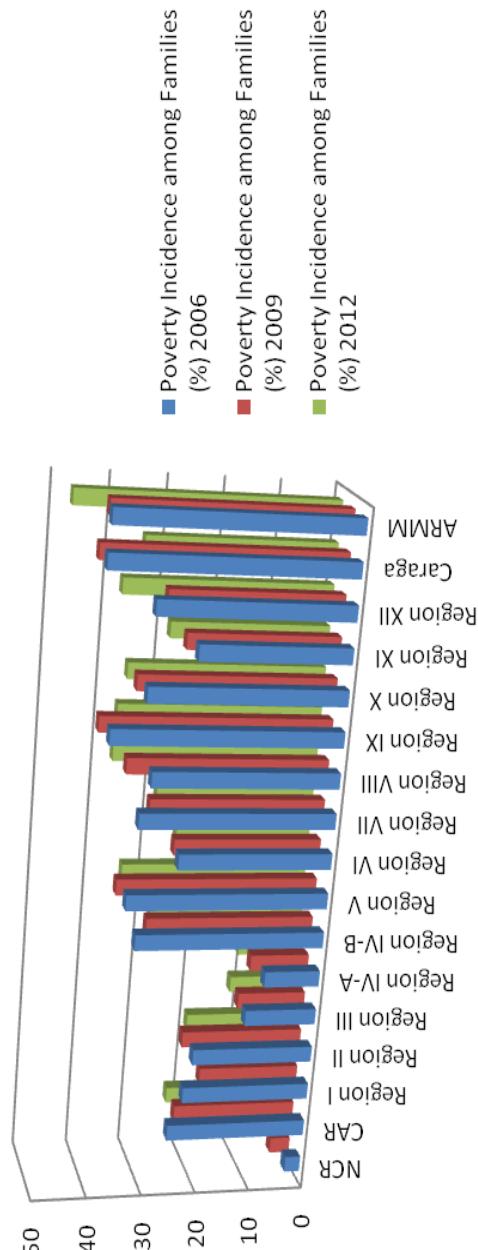


Figure 18. Comparative Poverty Incidence Among Families (%)
Source: NSCB



The top province, La Union, has a life expectancy 22.8 years greater than the bottom province, Tawi-Tawi.

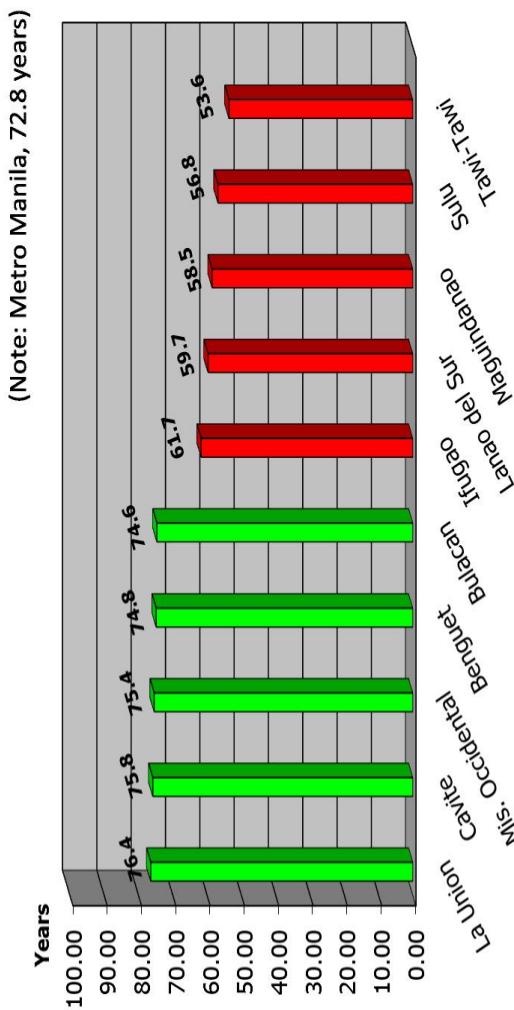


Figure 19. Top 5-Bottom 5 Provinces in Life Expectancy, 2009

On average, adults in the top 5 provinces have 10.1 years of schooling, 73 percent more than adults in the bottom 5 provinces

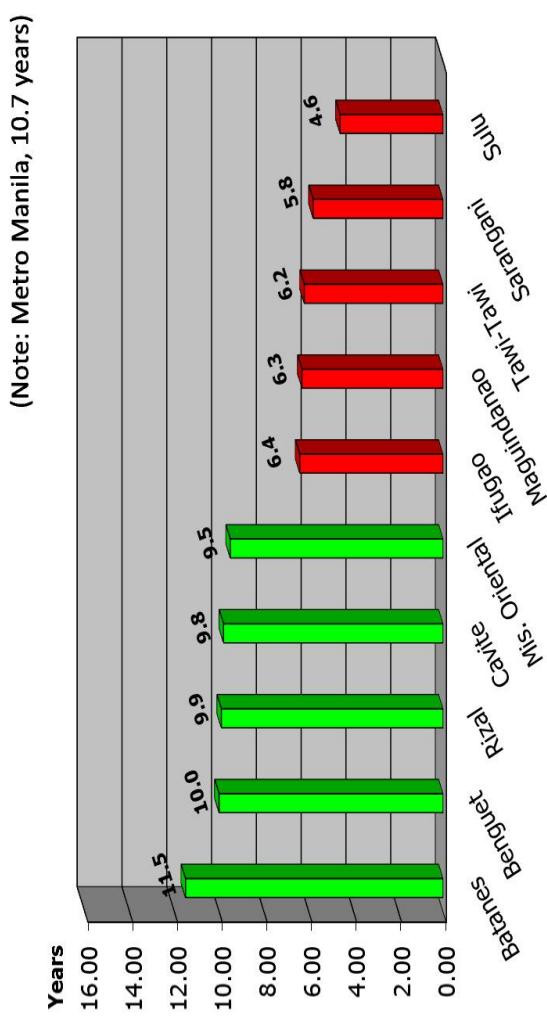


Figure 20. Top 5-Bottom 5 Provinces in Schooling, 2009

School-age children and youth in Benguet are expected to have about 4 more years of schooling than their counterparts in Maguindanao.

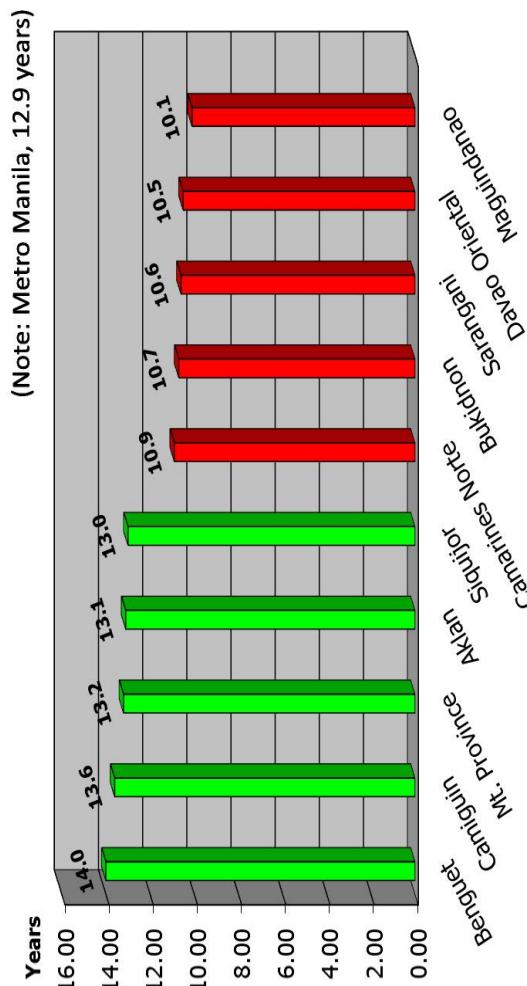


Figure 21. Top 5-Bottom 5 Expected Years of Schooling, 2009

The real per capita purchasing power of a 'top-5' province is almost three times more the real per capita purchasing power of a 'bottom-5' province

(Note: Metro Manila, 73,738)

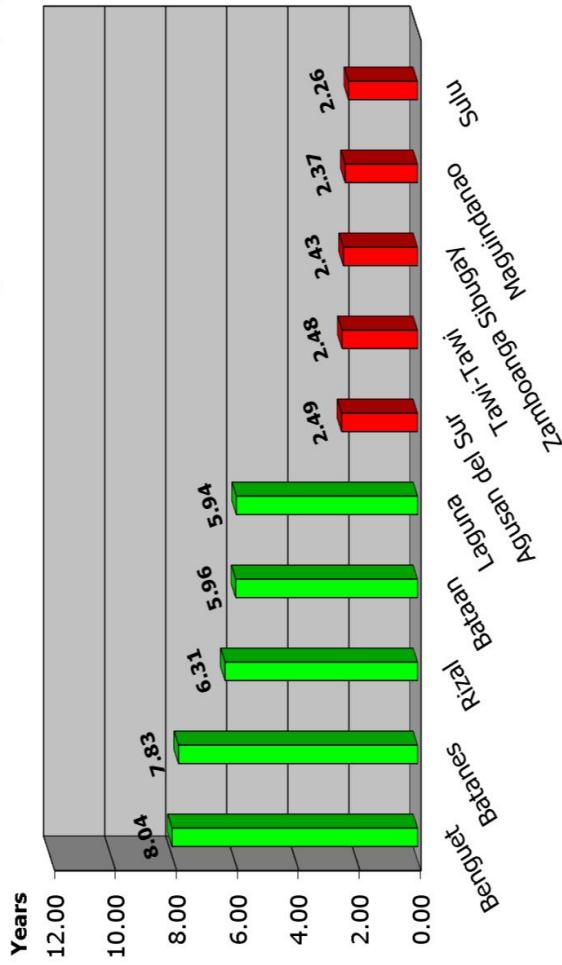


Figure 22. Top 5-Bottom 5: Real, Per Capita Income/Per capita Purchasing Power (PPP, 2009)

9 out of 10 provinces with the lowest HDI levels are from Mindanao. On average, the HDI of the top 10 provinces is twice the HDI of the bottom 10 provinces.

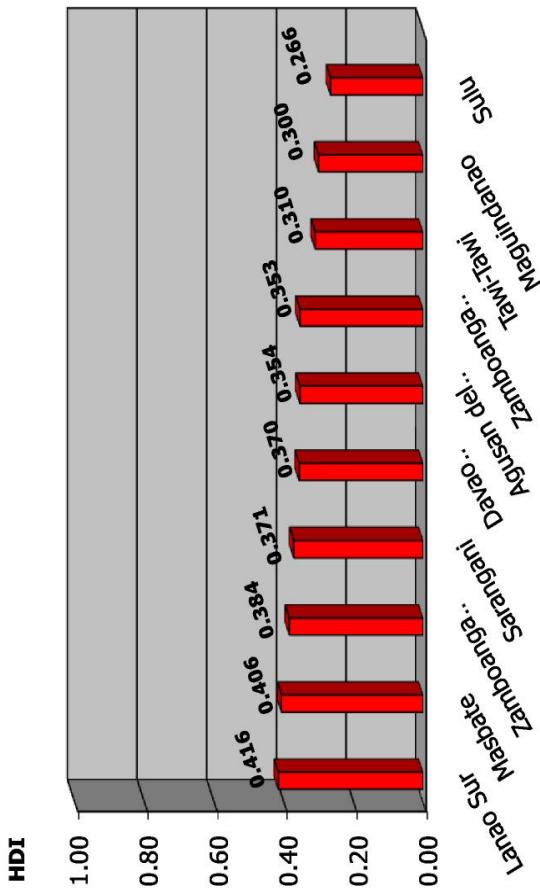
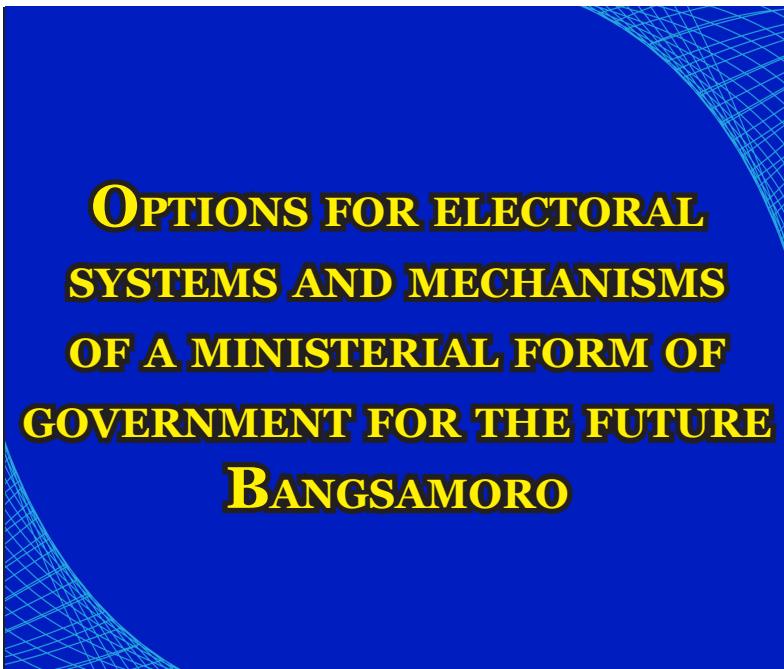


Figure 23. Bottom 10 provinces, HDI, 2009



**OPTIONS FOR ELECTORAL
SYSTEMS AND MECHANISMS
OF A MINISTERIAL FORM OF
GOVERNMENT FOR THE FUTURE
BANGSAMORO**

OPTIONS FOR ELECTORAL SYSTEMS AND MECHANISMS OF A MINISTERIAL FORM OF GOVERNMENT FOR THE FUTURE BANGSAMORO

Dr. Peter Koeppinger

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Resident Representative to the Philippines,
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"The government of the Bangsamoro shall have a ministerial form.

The parties agree to entrench an electoral system suitable to a ministerial form of government. The electoral system shall allow democratic participation, ensure accountability of public officers primarily to their constituents and encourage formation of genuinely principled political parties..."

~ Framework Agreement on the Bangsamoro

PART 1: Options for electoral systems for the Bangsamoro region

The parliament in a “parliamentary system” is much more powerful than in the presidential form of government because it elects the head of government and controls the performance of the administration.

For an electoral system to be “suitable to a ministerial form of government” (parliamentary

system) it is a must that it provides all relevant groups of citizens with the opportunity to have their representatives elected into the parliament.

The electoral system has to avoid situations in which only the majority of the citizens in the whole area or in its divided constituencies have a real chance of getting their representatives elected. At the same time, it has to continuously steer away from high fractionalization of the parliament into small groups. This balance is needed to foster opportunities for mustering stable majorities for the election and continuous support of a stable government.

The Framework Agreement on the Bangsamoro requests that the electoral system has to ensure accountability of public officers primarily to their constituents.

In general this will already be met in the ministerial form of government by the direct accountability of the government and its members during the whole legislative period to the members of the parliament, who are the representatives of the citizens.

Specifically, this indicates the need to select an electoral system in which at least a majority of members of the parliament are representing specific constituencies.

The request of the FAB that the electoral

system shall “encourage formation of genuinely principled political parties” is on one side related to the characteristics of a ministerial form of government. Because what would be the criteria to hold the government accountable for the members of parliament if not the thematic issues and objectives, built on the ideology and principles of the majority parties, promised to the voters before the election? And how could the members of the majority parties, supporting and holding accountable their government, act as a more or less unified group, if they consist only of personalities and patrons from their respective areas?

But how can the electoral system encourage the formation of such “genuinely principled political parties”?

Definitely a system, in which all members of parliament are just elected in their respective district by majority, is prone to be dominated by patrons and personalities, and a genuinely principled political party – if existing – cannot play a relevant role.

Therefore the electoral system has to include selection mechanisms for the candidates, in which their respective party, beyond single strong leaders in certain districts, decides with all its members in a democratic way on its candidates.

This however leads to another necessity: The

accessibility for political parties to elections in Bangsamoro has to be bound on the existence of normal citizens as party members - beside political office holders and candidates as potential "beneficiaries" from the elections - and on the existence and compliance with effective internal democratic decision making and selection procedures in these parties.

Preliminary remarks:

The decision on the size of **the parliament (number of its members)** is important, as it can support or limit the quality of democratic participation and the formation of genuinely principled political parties. In the actual ARMM with about 3.32 million inhabitants (statistical data from 2011) the Legislative Assembly counts 24 members. With the possible inclusion of Cotabato and the City of Isabela and some areas in Lanao del Norte in the future Bangsamoro and the high population growth the population in Bangsamoro at the time of the first elections in 2016 might increase to about 4.6 million inhabitants. International standards for regional parliaments indicate that the number of inhabitants represented by one member of parliament should not be more than 100,000 in order to make interaction between the constituents and their elected representatives not too difficult. A number of 46 members of the parliament of the Bangsamoro Autonomous Region could be adequate.

The population of the Bangsamoro area is highly

diverse. Among the Muslim majority are different tribes, living mainly separated in the island provinces (Basilan, Sulu, Tawi-Tawi), Lanao del Sur and Maguindanao. Furthermore Christian settlers and different groups of indigenous peoples are spread over the whole area, being small minorities or even dominant majorities in some barangays or even municipalities.

The quality of democratic participation will depend on the design of an electoral system which provides them with the opportunity of being represented in a fair way in the regional parliament, which in the ministerial system, is the center of the state power.

The term (legislative period) for which the regional parliament is elected should be longer than 3 years. International standard for such parliaments are 4 or 5 years. However this decision should be considered also in connection with the elections for the local governments in Bangsamoro.

As the term for local elections is explicitly fixed at three years in the 1987 Constitution, it would be probably necessary to amend the Constitution, if the term for local elections in Bangsamoro should be prolonged also to 4 or 5 years.

A solution could be to fix the term initially on 3 years for both the regional parliament and the local councils in Bangsamoro and to amend it to 4 or 5 years

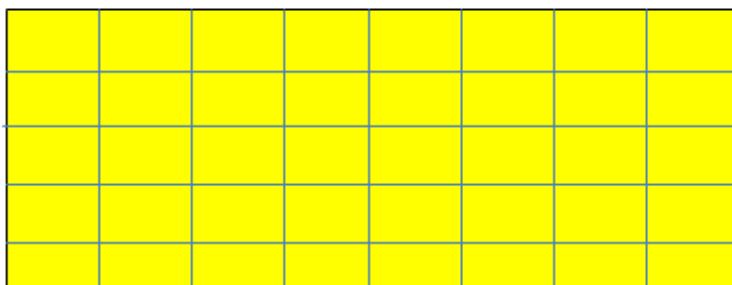
whenever a respective amendment of the Constitution can be achieved.

Let us have a view on the basic options for a democratic electoral system and some of the characteristics, advantages and disadvantages or risks:

Option 1:

All members of the parliament are elected in one-seat local constituencies (districts) by simple majority. In this example you see 40 members of a regional parliament; each elected in his separate constituency. The election process is simple: each voter has one vote.

- Advantage: The constituencies are small, the voters know the candidates.
- Risk: Will the winners from the different constituencies work together in the parliament? What binds them together? Can genuine political parties play a role - or is it just about representation of local issues?



First judgement: This option would create in theory a perfect system of direct accountability of the elected public officers to their local constituencies. But this is only true if these local representatives would be selected by genuinely principled political parties that are built on membership of normal citizens, who would hold accountable the elected representatives after their election and monitor their performance.

In the Bangsamoro reality this option would strongly favour the grip of local dynasties or dominant families on the representation in the powerful regional parliament. It would make it very difficult for genuinely principled political parties, organized region-wide in Bangsamoro, to have influence on the selection of successful candidates in the districts and to play a strong role in the orderly management and performance of the Bangsamoro parliament.

It would also make it impossible for minorities spread over the region to be represented in the regional parliament as long as they do not have a majority in one of these districts.

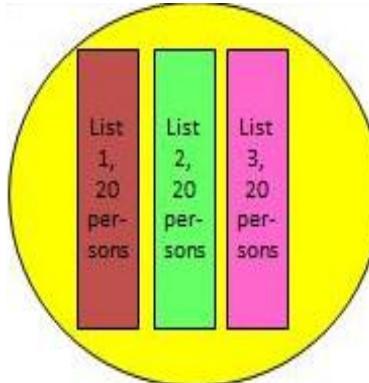
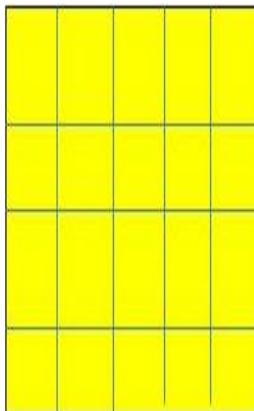
Option 2:

In this option, part of the members (i.e. 50%) are elected in local districts, the other part through party lists of genuinely principled political parties for the whole country/region. Each voter has two votes: one for

the representative of his local district, one for a party list.

20 directly elected
district representatives

20 representatives from party
lists elected in accordance to
thier percentage of votes



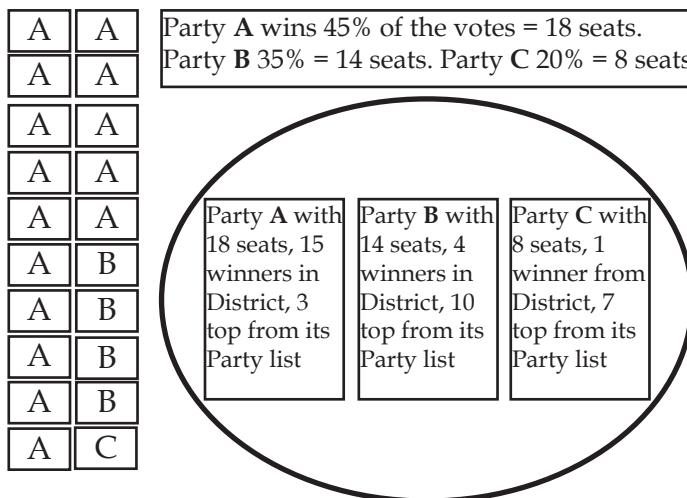
First judgement: This option would still contain a strong element of direct accountability of half of all members of parliament to their local constituents – still with the disadvantage in reality that it would provide the local dynasties and dominating families with the possibility of strong representation in the regional parliament.

However in this option the formation of genuinely principled political parties would be encouraged because they would have the opportunity to create strong party lists along their respective principles and advocacies beyond the borders of the different provinces for the whole Bangsamoro region.

And scattered minorities would have the possibility to be represented or through inclusion in the party lists of strong regional principled parties – who would also compete for the votes of these minorities in order to achieve majorities in the regional parliament – or through their own minority party list, which could win a seat with less than 3% of the total votes in Bangsamoro.

Option 3:

This option is a mixed system wherein direct elections and proportional elections are combined. Each voter has two votes: one in his district, one for a party list.



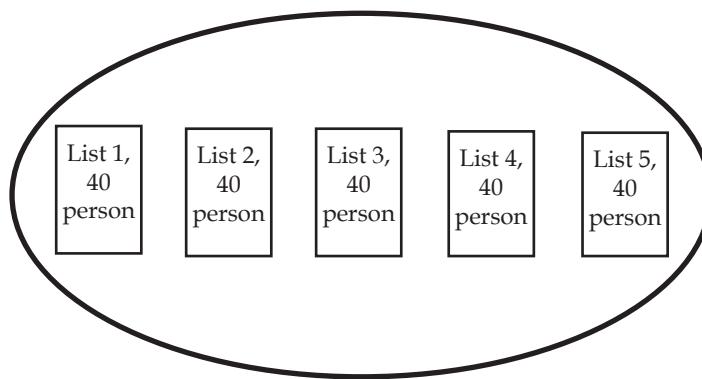
First judgement: Like Option 2, this option has the disadvantage that it could still leave much room for local political dynasties to dominate the regional parliament.

And similar to Option 2, this option has the advantages that it provides genuinely principled political parties with the opportunity to play an important role and that it provides scattered minorities in Bangsamoro with the opportunity to be directly represented in the regional parliament.

Furthermore in comparison with Option 2, it has the advantage of being even more inclusive because all seats – not only half of them – are distributed in accordance to the proportional representation system.

Option 4:

40 representatives of party lists elected according thier percentage of votes



All members of the regional parliament are elected through party lists of genuinely principled political parties for the whole country/region. The electoral process is very simple: Each voter has one vote.

- Advantage: Genuinely principled political parties will play a strong role.
- Disadvantages: Representation of regions/provinces not sure, no direct accountability to electorate.

First judgement: This option would strongly encourage the formation of genuinely principled political parties organized throughout the whole Bangsamoro area. They would dominate with the candidates on their lists – elected in (hopefully!) internal democratic procedures by the members of these parties – the powerful regional parliament.

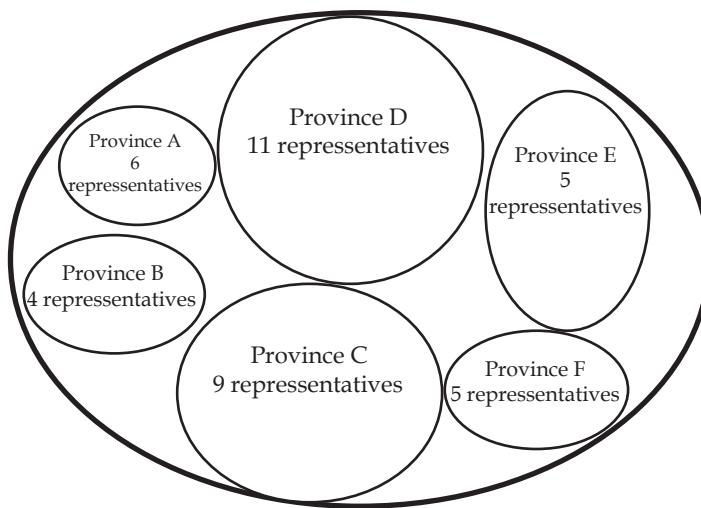
The disadvantage of this option would be that if a strong and winning political party with its support mainly coming from part of the Bangsamoro region would put only or mainly candidates from this part of the region on the top of its list, the demand of the FAB on an electoral system which “ensures accountability of public officers primarily to their constituents” would not be met, and part of the population of Bangsamoro would not feel to be represented in its political decision making institutions.

Option 5:

The election of the members of the parliament takes place in multi-seat constituencies within the existing provinces through provincial party lists under genuinely principled political parties in a proportional

way. Simple electoral process: Each voter has one vote.

- Advantages: Gives parties a strong role in the provinces, where they are strong. Elected representatives are accountable to citizens in their respective provinces. 40 members of parliament are elected from provincial party lists according to their percentage of votes in the respective provinces.



First judgement: With a supposed number of 46 members of the Bangsamoro parliament this would lead, following the statistical population data from 2011, to a distribution of 12 seats in the Maguindanao Province District, 12 seats in the Lanao del Sur Province District, 9 seats in the Sulu Province District, 5 seats in the Basilan Province District (including Isabela), 4 seats in the Tawi-Tawi Province District and 4 seats in the Cotabato district.

On one side, the accountability of public officers primarily to their constituents would be ensured as the lists are presented and voted on in the different provinces so that the winning candidates would feel accountable to these constituencies.

On the other side, this option would strongly encourage the formation of genuinely principled political parties in Bangsamoro, as it would be these parties with their members, who elect the candidates in their respective multi-seat districts, and it would be more difficult for the local political dynasties and dominating families to dictate whole the provincial list of the party than to do that in smaller one-seat constituencies.

The formation of principled political parties would also be encouraged under this option by the fact that only with party organization along principles and ideologies a party would have a chance in the diverse ethnic and tribal reality of the different provinces in Bangsamoro to win seats in all parts of the region and to achieve influence or even a majority in the regional parliament.

The multi-seat constituencies would also provide scattered minorities in the different parts of Bangsamoro with the opportunity to be included into the representation in the powerful parliament – namely through their inclusion in the party lists of strong regional principled parties – who would also compete

for the votes of these minorities in the provinces, where they are relevant, in order to achieve majorities in the regional parliament.

Conclusions:

Different from the situation in countries with existing strong principled political parties, built on dues paying members, Option 1 (direct simple majority vote in one-seat districts) would not produce stable majorities in the Bangsamoro regional parliament and therefore would not provide the government of the region with continuous support and stability, because it would be a multitude of local dynasties and dominant political families who would be the main beneficiaries of such an electoral system.

The necessity to create stable majorities in the parliament for the stability of government – which is an important challenge in the ministerial form of government – requests an electoral system, which strongly encourages the formation of principled political parties and the control of the regional parliament by them.

This can be in form of one dominant party or by a coalition of two or three of them, being inclusive of the diverse groups and minorities in the whole region through their principles and ideological orientation instead of one issue or one group or one locality

advocacies.

Under this aspect of creating stability and inclusiveness of the political system of Bangsamoro as a precondition of its success and sustainability, **Options 2, 3 and 5 seem to have clearly more advantages than Options 1 and 4.**

PART 2: Detailed mechanisms of a ministerial form of government

In the ministerial form of government the accountability of the head of government and the ministers to the parliament shall ensure that the government, always, is built on the consensus of the citizens - represented by the elected members of parliament.

The majority of the parliament can force the head of government and the total government team at any time in the legislative period to step down when they come to the conclusion that the government acts no more in the interest of the citizens.

This is a strong mechanism for promoting good governance in the actions and performance of the administration. But it can also turn into a source of instability of the government, namely, when part of the members of the parliament in a way try to blackmail the administration for specific or even personal interests,

or when a majority of the members of parliament only can agree on bringing the government down but cannot agree among themselves on electing with majority a new head of government.

The specific regulations on election of the government by the parliament, the cooperation between these two institutions and the forms of supervision of the government by the parliament therefore have to take into account:

- The need of installing clear mechanisms of accountability of the government to the parliament, and
- The need to ensure the existence of stability of governments for the orderly administration of the whole autonomous region.

10 key questions to be answered, options and first judgements

Question 1: Who can be elected as head of government (prime minister), who can become (appointed or elected, see Question 3) member of the government (minister)?

Option 1: The head of government and all of his ministers have to be members of the parliament.

Option 2: The head of government has to be a

member of the parliament, his ministers can be members of parliament or not.

Option 3: The head of government and his ministers can be members of the parliament or not.

Option 4: The head of government and his ministers are not allowed to be members of parliament. If they have been elected as members of parliament, they have to step down and be replaced before being elected or appointed as members of parliament.

First judgement of the options:

In a ministerial form of government or parliamentary system the government is closely connected to the majority of the parliament and gets its legitimacy from being supported by this majority.

Therefore, only in exceptional situations – where a difficult coalition or a very diverse majority cannot agree on one of their own members of parliament as head of government – can it be a solution to have a prime minister elected who is not a member of the parliament himself.

This is not so much a strict consideration with ministers, especially if they are appointed by the head of government and not elected or approved separately by the parliament.

International experience with this system indicates that Option 2 or Option 3 are most viable and lead to practicable solutions in many different situations.

Question 2: How shall the election of the head of government (prime minister) be organized?

Option 1: The president of the parliament (speaker), after being elected, nominates the candidate of the strongest party for the election of the head of government. If this one does not find the necessary majority (see Question 4), the speaker is free to nominate any other candidate after negotiation with the parties represented in the parliament.

Option 2: The president of the parliament (speaker), after being elected, asks for nomination of candidates from the parties represented in the parliament. In the first voting the candidate, who finds the majority requested (see Question 4) is elected. If nobody finds the majority requested the two candidates with the highest number of votes go into a second voting. The one who finds the majority requested is elected. If again no one of them finds this majority the president of the parliament is free to nominate any candidate after negotiation with the parties represented in the parliament.

First judgement of the options:

Both options seem to be possible in the

Bangsamoro Autonomous Region. The first option seems to offer a more simple procedure if – for example – the strong position of MILF as the originator of the FAB will continue until the 2016 elections.

Option 2: Would somehow polarize potentially the parliament from the beginning, however provides more transparency on the real power situation and more democratic participation feelings.

Question 3: Which government members shall be elected by the parliament?

Option 1: The parliament elects only the head of government (prime minister) and he is free to select the other members (ministers) without approval of the parliament.

Option 2: The parliament elects the head of government, he selects the other members (ministers) and the parliament has to approve the government as a whole.

Option 3: The parliament elects the head of government and has to approve every member of the government (minister) after being nominated by the head of government.

First judgement of the options:

Option 1 gives the head of government a very strong position and some independence from the majority in the parliament.

Option 3 easily creates complications as it can endanger the difficult efforts of the head of government and the leading decision makers of the majority party or coalition to combine effective and quality personality recruitment for the government positions with the necessary compromises between influential groups and personalities.

Therefore **Option 2** seems to provide a better balance between the need to have a head of government who can really take decisions and the need to establish a relation of both support and supervision between him and the majority of the parliament.

Question 4: Which majority is requested to elect the head of government (and, in case that this is regulated) to approve the whole government or the single ministers appointed by the head of government) in the parliament?

Option 1: Two thirds majority

Option 2: Absolute majority (one vote more than

50%) of the total number of members of parliament

Option 3: Absolute majority (one vote more than 50%) of the parliamentarians present at the voting

Option 4: Simple majority of the members of parliament attending the voting

First judgement of the options:

Option 1 could create huge obstacles for the establishment of the government and is usually only considered in countries with deep polarization and the need of bringing together all relevant groups behind the government (for example after the end of civil wars).

Options 3 and especially **Option 4** create the danger that a government might be installed that does not really have the support of the majority in the parliament and that will be blocked later by the parliament or even forced to resign.

Therefore **Option 2** seems to provide a balanced solution.

Question 5: How can the parliament force the government as a whole to resign?

Option 1: By a two thirds majority vote of non-confidence

Option 2: By a vote of non-confidence supported by the absolute majority of the members of the parliament (one more than 50%)

Option 3: By replacing the incumbent head of government through a new head of government with an absolute majority of the members of the parliament (one more than 50%) (so-called “constructive vote of non-confidence”)

First judgment of the options:

Option 1 creates the danger that a government in spite of having lost the confidence of the majority in the parliament and in spite of being blocked with all its legislation can still hang on to power – with bad consequences for the region.

Option 2 creates the danger that a majority of the parliament can force the government to resign but is not able to agree on a replacement, leaving the region in a paralyzed situation without government.

Option 3 therefore provides an elegant solution – tested in other countries - to avoid both problems.

Question 6: How can the parliament force single members of the government to resign?

Option 1: No way to force one minister to resign

if the head of government does not agree

Option 2: By a two thirds majority vote of non-confidence

Option 3: By a vote of non-confidence supported by the absolute majority of the members of the parliament (one more than 50%)

First judgment of the options:

The option to be selected should follow the option taken under 1.4 for the selection/election of the different members of the government:

- If it is the head of government who selects his ministers without the need of approval of the parliament, Option 1 would be logical.
- If the single ministers or the government as a whole have to be approved at the moment of the establishment of the government by the parliament, **Option 2 or 3** could make sense.

Question 7: Who can take the decision to dissolve the parliament and to have new elections?

Option 1: The parliament will be dissolved automatically with new election to be organized in a certain period if the head of government resigns and

within a certain period no other head of government can be elected (see majority in Question 4).

Option 2: The president of the parliament can take the decision to dissolve the parliament, if the government is losing continuously voting in the parliament and in a certain period no constructive vote of non-confidence takes place to replace him/her.

Option 3: The parliament itself by two thirds or absolute majority can take the decision.

First judgment of the options:

Option 1 creates an inflexible mechanism which in some situations might not be advisable. It simply is not easy predictable how long it could take to elect a new government and if there is still hope in a situation to avoid the costly and frustrating act of early dissolution of the parliament.

Option 2 is only recommendable when the criteria for the judgment on “government continuously loosing voting in parliament” are very clear so that the speaker of the parliament cannot act discretionally.

Options 2 and 3 can be both taken into consideration. However to avoid unfortunate decisions out of short term fighting and trouble it seems to be better to reserve the dissolution of the parliament on its

own decision only for cases, in which this decision is taken by a two thirds majority.

Question 8: Who should be the head of the Autonomous Region, representing it externally?

Option 1: The head of government (prime minister)

Option 2: The president of parliament (speaker)

First judgment of the options:

The international standard is **Option 1**.

Question 9: How is the head of the parliament (president of the parliament, speaker) elected? And how are the deputy speakers elected?

Option 1: The head of the parliament is elected in the first meeting of the parliament after the election by simple majority of the votes of members of parliament present at the voting. The deputy speakers of the parliament (1, 2 or 3) are elected in one single voting in which each member of the parliament has one vote. The ones with most votes are elected.

Option 2: The head of the parliament is elected in a way that he is nominated by the strongest party in the parliament and approved in open voting by the

parliament as a whole. The deputy speakers are voted in the same procedure after being nominated by the second, third and perhaps fourth strongest party in the parliament.

First judgment of the options:

Option 1 is a simple option, providing the members of parliament with a solution of inclusive representation of the major parties or groups in the leadership of the parliament which needs not much negotiation in advance.

Option 2 could be selected when a certain standard of fair play and the honoring of gentlemen agreements can be expected from the parties with their members following their leaders in a disciplined way.

Question 10: Who decides upon the agenda of the parliament?

Option 1: A council of elders with a maximum number of members of the parliament, consisting of representatives of all parties in the parliament following their proportional strength, decides by consensus upon the agenda of the parliament, giving priority to suggested topics from each party in relation to its percentage of members in the parliament.

Option 2: A council of elders with a maximum number of 7 members of the parliament, consisting of representatives of the parties in the parliament following their proportional strength, decides upon the agenda of the parliament by two thirds majority.

Option 3: The president (speaker) of the parliament decides upon the agenda of the parliament after hearing the suggestions/requests of each party represented in the parliament.

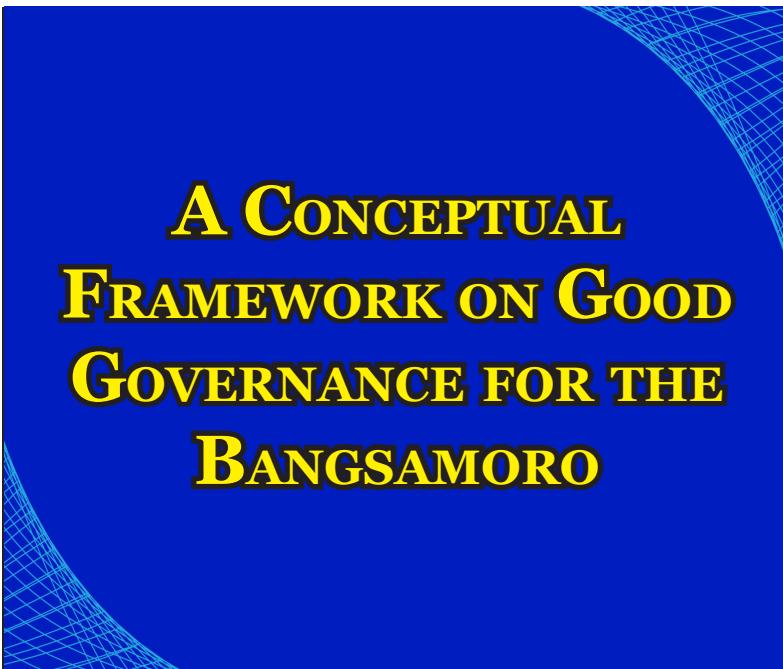
First judgment of the options:

This question is very important for the protection of minority rights in the parliament.

Option 1 is by far the most democratic, fair and inclusive option.

Option 2 still seems to be acceptable in case that too difficult negotiations (achieving consensus) shall be avoided.

Option 3 leads to a democratically very questionable domination of all the legislation agenda by the dominant party and probably to a strong limitation of the supervision function of the parliament over the work of the government.



**A CONCEPTUAL
FRAMEWORK ON GOOD
GOVERNANCE FOR THE
BANGSAMORO**

A CONCEPTUAL FRAMEWORK ON GOOD GOVERNANCE FOR THE BANGSAMORO

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Introduction

After more than twenty years of operation, the Autonomous Region in Muslim Mindanao (ARMM) was declared a “failed experiment”. To quote the Institute for Autonomy and Governance (IAG), it said:

“The causes for the failure are many and complex: structural (lack of funding, weak bureaucracy, corruption, and unclear relationship with the national government) and attitudinal (leadership’s subservience to the national government, lack of vision, and unbridled struggle for personal power).”¹

The observations of Benedicto R. Bacani, the Executive Director of IAG, while discussing the pitfalls of Mindanao Autonomy and the failed relationship of ‘Manila and the MNLF’ is worth noting:

“The asymmetric relationship between Manila and the MNLF in a post-agreement autonomy arrangement exemplifies this negative state of

affairs. It explains in large part the constriction of autonomy's potential to effect structural and policy shifts for meaningful minority self-rule. The end result is an uninspired regional autonomy structure that has lost steam, a structure that simply mimics the central government's way of doing things, including those that lead to the entire country's woes – inefficiency, corruption and a highly politicized and bloated bureaucracy.²

(Underlining added)

Such a finding leads to the postponement of the impending election in the region in 2011 and installing instead an OIC Governor until the May 13, 2013 synchronized elections.

But, let us look at a timeline to see if it has to do with problem:

1. On August 1, 1989 – Republic Act 6734 or the Organic Act for the creation of the Autonomous Region in Muslim Mindanao (ARMM) was enacted into law as mandated by Section 15, Article X of the 1987 Constitution. This marks the creation of ARMM. Marawi City was not yet then a part of ARMM.

2. On October 10, 1995, or six years after the creation of ARMM, Muslim Mindanao Autonomy Act (MMAA) No. 25 or the Regional Local Government Code was enacted into law by the Regional Legislative

Assembly of ARMM. However, not a single provision on the Islamic concept of governance has been incorporated. It is practically a reproduction of the Local Government Code of 1991 (RA 7160).

3. On March 31, 2001, Republic Act 9054, strengthening and expanding the Organic Act for ARMM was enacted into law. Marawi City, in a plebiscite, opted to join ARMM.

4. On December 19, 2011, or more than twenty-two years after the creation of ARMM, MMAA 287 was signed into law by the Acting Governor Ansaruddin Alonto Adiong, just barely three days before the assumption to office of the OIC Governor. True, there are Islamic concepts of governance that are provided for in the Code but they are not self-executory. Enabling laws have to be enacted yet. Besides, there is yet to be an Implementing Rules and Regulations (IRR) for the Code.

In short, all through these years, although the operators are Muslims, the machineries that they are operating, including its manual, are designed for the Philippines, not specifically for the ARMM. Therefore, the Islamic concept of governance was not given a chance to operate in these areas of the autonomy for more than twenty years. I do not want to speculate on the reason why it took the ARMM Regional Legislative assembly to enact the Regional Administrative Code this long, which

is considered the bedrock of governance.

In Islam, a leader is not only accountable to the people but to God. Is this what our ARMM leaders believe? I don't think so. During the inaugural address of Acting Regional Governor ANSARUDDIN ALONTO ADIONG when he took over the leadership of the ARMM from Regional Governor Zaldy Ampatuan, he said and I quote:

As acting Regional Governor, I am fully aware that I am now accountable to the national government and to the constituents of this region. I am determined to exercise those powers and authorities expressly granted to me by RA 9054 for the proper governance and development of the autonomous region.³ (Underlining added)

In my opinion, the following factors, to a large extent, also contribute to the failure of the experiment for ARMM:

1. Failure of Muslims to choose leaders according to Islamic standards. Islam has established certain standards and qualifications of Muslim leaders. These are never considered because there was no law to this effect. In Islamic governance, there is no dichotomy between elective and appointive positions. The primary qualifications are: competence and trustworthiness. In our present system, a lowly employee is required to

finish at least a college degree and with the appropriate civil service eligibility; whereas, for elective officials, including the President, for as long as they know how to read and write they is qualified.

2. Failure to relate Islamic values of good governance. The ethical bases of good governance are never set forth in the choice of leaders of the ARMM.

3. Failure to explore the compatibility between Islam and democracy. Most often, Islam and democracy are portrayed and seen as government systems that are at odds.

4. Failure to observe Islamic work ethics in the government service. This is so because there was no specific law yet for the ARMM on this aspect.

Since the Transition Commission is presently drafting the Bangsamoro Basic Law, it is my hope that the recommendations herein are taken into consideration. There maybe some aspects that are not within their agenda.

The Emergence of Good Governance

The concept of 'good governance' has been in the limelight some twenty-three years ago, or between 1989-1990 to be exact, both in the international, national and even in the local arena. Although the concept is still

abstract and ambiguous as its form or shape has yet to be made certain, clear and determinate, it has nevertheless been widely used by the academic community on the one hand and the aid or donor community on the other hand, to serve their own needs and purposes, vis.:

1. The academic community “focuses mainly on the study of the different ways in which power and authority relations are structured in a given society”.

2. The donor community “puts emphasis on the role state structures play in ensuring social, economic and policy equity and accountability through open policy processes.”

On the other side of the globe, some 1400 years ago, the Muslims in the Middle East are already practicing or are supposed to do so, the principles constituting good governance. In other words, Islam has its own version of accountability, transparency, predictability or rule of law and participation, which are broader in dimension as compared to the western secular perspective, as we shall explain later.

Several studies has already been undertaken and empirical evidences were gathered on the effects of ‘good governance’ as far as the problem of endemic corruption in the government is concerned and the uniform conclusion is that it has done little. This can be interpreted to mean that the notion of the term ‘good’ as

used in ‘good governance’ is not good enough.

It is interesting to know that some contemporary scholars, practitioners and other concerned individuals and organizations have recently been advocating for new paradigms in governance by proposing the introduction of relevant religious ethics and principles to supplement the secular principles of modern governance, to promote good governance not only in developing but even in developed nations.

Here at home, Dr. Valentino G. Baac and Dr. Ligaya P. Jorge of the Graduate School, The Royal and Pontifical University of Santo Tomas, have advocated for “A Spiritual Paradigm for Philippine Public Administration” way back in 2005, “as a modeling initiative for individual bureaucrats to follow as very timely owing to the country’s poor governance brought about by corruption and by the deteriorating lack of spirituality among government employees.

Conceptual Framework

This paper has theoretical, textual and legal bases. It is based on the Social Contract Theory on Governance with Thomas Hobbes (1651), John Locke (1689), and Jean-Jacques Rousseau (1762) as the major proponents. The theory finds support from three Muslim scholars – Dr. Tanveer Hussain of the National Textile University, Faisalabad, Pakistan, Prof. Mashhood A. Baderin of

the School of Oriental and African Studies (SOAS) and University of London, Russell Square, London, and Dr. Hamid A. Barra of the King Faisal Center for Islamic, Arabic and Asian Studies of the Mindanao State University in Marawi City, who is now teaching at the International Islamic University Malaysia as Visiting Professor.

It has been said that man, as a social animal and the society where he belongs are the takeoff point of all social investigations. His relationship with his society or the nature of the society are questions which philosophers have been trying to answers throughout the ages, developing their own theories about how political authority can arise. One of such theories is the Social Contract Theory with Hobbes, Locke and Rousseau as major proponents during the 17th and 18th century and has recently been returned to the frontage of political philosophy by John Rawls. The social contract theory is considered as one of the foundations of the political system of the United States of America and has been applied here in the Philippines and may even take a new look during the Benigno S. Aquino III Presidency.

“Social Contract Theory is a philosophy, which states that political and moral obligations of a person are rendered to him, upon an agreement between the ruler and the society. This agreement governs both the ruler and the ruled society to act in accordance with one another.” (Cherry, 2008). “This is the belief that the state

only exists to serve the will of the people, and they are the source of all political power enjoyed by the state. They can choose to give or withhold this power." (Kelly, 2012)

The social contract theory can be defined loosely as a sort of hypothetical or actual agreement between society and its state. This agreement has been said to be responsible for the bases of our moral decisions and stances. In other words we merely abide by the governments rules and regulations in the hope that others will do the same, subsequently leading to a more secure and comfortable life. (Rusling, 2005)

From the Islamic perspective, Hussain (2011) said, a similar sort of contract (although not exactly identical) is indeed mentioned in the Quran between Allah and the Believers (in His Divine Guidance and Laws which were given to mankind from time to time e.g. in the Torah, the Gospel or the Quran, and of which the Quran is presently the last and the final version).

Indeed, Allah has purchased from the believers their lives and their properties [in exchange] for that they will have Paradise. They fight in the cause of Allah, so they kill and are killed. [It is] a true promise [binding] upon Him in the Torah and the Gospel and the Qur'an. And who is truer to his covenant than Allah? So rejoice in your transaction which you have contracted. And it is

that which is the great achievements. (at-Taubah, 9:111).

According to the contract or covenant mentioned in Quran (at-Taubah, 9:111), Hussain (2011) continued that, anyone who becomes a Believer promises to spend his/her life and property according to Allah's Will in return of a promise by Allah for a paradisiacal life in this world and the hereafter. Such a contract/covenant is administered by Allah's Messenger on Allah's behalf, examples of which are mentioned in the 48:10 and 60:12 given below:

Indeed, those who pledge allegiance to you, [O Muhammad] – they are actually pledging allegiance to Allah. The hand of Allah is over their hands. So he who breaks his word only breaks it to the detriment of himself. And he who fulfills that which he has promised Allah – He will give him a great reward. (al-Fath, 48:10)

O Prophet! When believing women come to you giving you a pledge that they will not associate aught with Allah ... and will not disobey you in what is good, accept their pledge, and ask forgiveness for them for Allah; surely Allah is Forgiving, Merciful. (al-Mumtahina, 60:12)

Hussain (2011) concluded “Allah's Messengers are always the first ones to establish an Islamic Republic

on earth based on Allah's Laws. Based on the above given references, it may be said that the basis of an Islamic Republic is also a covenant or social contract whereby people give up or surrender some of their personal freedom (e.g. those mentioned in 60:12), and give the Islamic government authority to enforce Islamic laws upon them whereby everyone lives in peace and happiness without fear of being harmed by others."

As descendants of Adam (Banu Adam), all human beings are entitled to participate in governance on earth, which thus creates a subsequent Trust from the populace to whomever they elect to positions of leadership. This is signified by the oath of allegiance (bay'ah) undertaken by the populace to the elected leader, which is a form of "social contract" between the leadership and the populace (Baderin, 2008).

The above explanations of Hussain (2011) and Baderin (2008) was corroborated by a local Muslim scholar, Dr. Hamid A. Barra, who is a member of the Integrated Bar of the Philippines and a Doctor of Philosophy in Laws (Ph.D. in Laws) graduate of the International Islamic University Malaysia (IIUM). Barra (personal communication, March 25, 2012) said "There is established in governance a Social Contract where the leader takes the duty of a Divine Trust. The Arabic term 'hakama' means to judge or to govern. Hence, Governance, being the greatest of all trusts, is the foremost showcase for the operation of this rule. Allah said in

Surah al-Nisa' 4:58 "Verily, Allah commands that you should render back the trusts to those to whom they are due; and that when you govern among men, you govern with justice." Barra further said that a manifestation of the Social Contract Doctrine is seen in the assumption of Abu Bakr as successor of the Holy Prophet (SAW), when he declared:

O you people! I have been made to rule over you though I do not feel to be the best among you. If I do well, help me; if I do not, correct me. Obey me as long as I am obeying Allah in running your affairs, but if I should disobey Him, I shall have no right to claim your obedience. The weak among you shall be strong in my eyes until I secure his right; and the strong among you shall be weak in my sight until I secure from him the right that he unlawfully took from others. I say all these, seeking Allah's forgiveness for myself and for you.

This theory was applied by the Philippine Supreme Court, which it consider to be the framework of the Philippine Constitution, in the case of Marcos vs. Manglapus, et al., G.R. No. 88211, on September 15, 1989. The Supreme Court, citing Section 1, Article II of the 1987 Constitution ruled that, "The Constitution as a social contract means that it is where the people have surrendered the sovereign powers to the State for the common good. Hence, least the officers of the government

exercising the powers delegated by the people forget and the servants of the people become rulers, the Constitution reminds everyone that 'sovereignty resides in the people and all government authority emanates from them.'"

It is submitted that the Preamble of the 1987 Constitution, which states that "We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society, and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity, the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution", is an expression of the Social Contract Theory.

The Conception Framework of this study can be better appreciated through a Schema (Figure: 1 see next page - The Theoretical Framework), thus:

As can be seen in this paradigm, there is now a Social Contract (implicit, explicit or hypothetical) between the Public Officials representing the Government and the Constituency representing the People. The arrow from the side of the Public Officials represents commitment and the arrow from the side of the Constituency represents the allegiance to the public establishment. With this bonding, the parties resolved

to work hand-in-hand in achieving Good Governance with four instruments or tools, such as, accountability, transparency, participation and predictability. As you can see there are lines interlinking the four pillars or tools of good governance. This is so because the four are mutually reinforcing and supporting each other. For example, accountability often times relates to participation and can be a safeguard of predictability. On the other hand, predictability and transparency usually serve to ensure accountability of public institutions.

On the process, the four tools have to traverse through two domains, the secular and the spiritual domain, before reaching the ultimate goal - Good Governance. Within the spiritual domain, there are four stages involved for a total spiritual development. The Islamic perspective on governance combines the two domains.

In his seminal work, Maududi (1996) discussed the four stages of spiritual development of man (i.e., leaders and followers alike) or what he termed the road to spirituality, as follows:

1. **Iman (Faith)** - The mind and heart of a man should always be aware: Allah alone is His Master, Sovereign and Deity; seeking His pleasure is the aim of all his endeavors; and His commands alone are the commands that are to be obeyed. This should be a firm conviction, based not merely on the intellect, but also

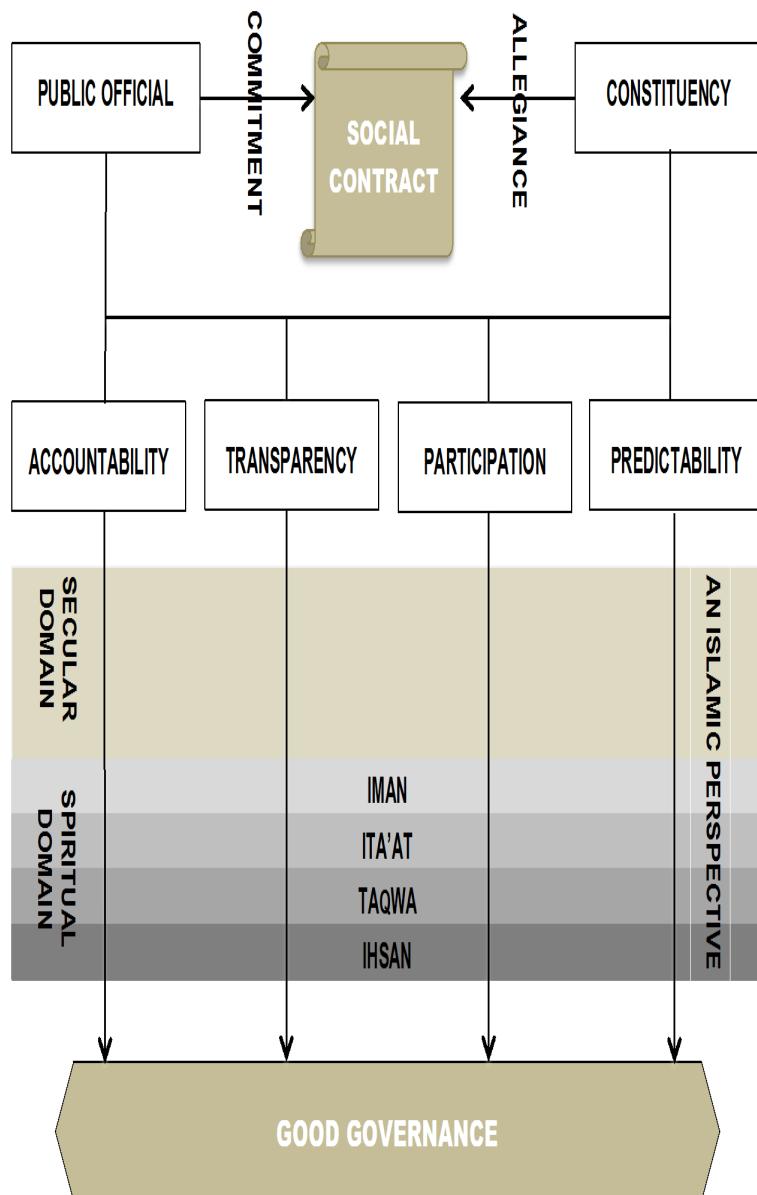


Figure 1: The Conceptual Framework

on acceptance by the will. The stronger and deeper this conviction, the more profound a man's faith will be.

2. **Ita'at (Submission or Islam)** – Meaning man gives up his independence and accepts subservience to Allah. This subservience is called Islam (submission) in the language of the Qur'an. Thus, man should not only acknowledge Allah as his Lord and Sovereign but should actually submit before Him and fashion his entire life in obedience to Him.

3. **Taqwa (Allah-consciousness)** – it consists in a practical manifestation of one's faith in Allah in one's daily life. *Taqwa* also means desisting from everything which Allah has forbidden or has disapproved of; man must be in a state of readiness to undertake all that Allah has commanded and to observe the distinctions between lawful and unlawful, right and wrong, and good and bad in life.

4. **Ihsan (Godliness or Excellence)** – It signifies that man has attained highest excellence in words, deeds and thoughts, identifying his will with the will of Allah and harmonizing it, to the best of his knowledge and ability, with the Divine will. He thus begins to like what the Lord likes and to dislike what He dislikes. Man should then not only avoid evil, for it displeases his Lord, but should use all his powers to eradicate it from the face of the earth; he should not be content with adorning himself with the good which

Allah wants to flourish but should also strive to attain and propagate it in the world, even at the cost of his life. A man who reaches this stage attains the highest pinnacle of spirituality and is nearest to Allah.

One cannot reach the level of *Ihsan* unless he is first a Muslim and a believer (Mu'min) and on the first two stages there sub-stages or elements, thus:

1. **Iman** has six pillars, namely: (a) Belief in Allah, (b) Belief in the angels, (c) Belief in the Divine Books that Allah revealed to His Messengers, (d) Belief in all of the Messengers, (e) Belief in the Last Day, when Allah will resurrect all of creation from their graves and then judge them for their deeds, and (f) Belief in *Al-Qadar* (Divine Preordainment).

2. **Islam** has five pillars, namely: (a) To bear witness that none has the right to be worshipped except Allah and that Muhammad is the messenger of Allah, (b) To establish the prayer (*Salat*), (c) To give *Zakat* (the obligatory charity), (d) To fast the month of *Ramadhan*, and (e) To perform the pilgrimage (*Hajj*) to the Sacred House (*Ka'bah*), by whoever is able to do so.

Hence, a Muslim leader must complete the four stages to be a true Muslim leader. In other words, a Muslim leader can still be a corrupt leader if he has not yet internalized *taqwa* and *ihsan*.

The Islamic perspective of good governance supplies what is lacking in its secular counterpart, as follows:

1. **On Accountability** – In our secular concept of accountability, Sec. 1, Article XI, of the Constitution states that “Public office is a public trust, and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives”. It also states in Section 27 of Article II “The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.”

In Islam, public office is a Trust (*Amanah*) from Allah and the public officer is a Vicegerent or Trustee (*Khalifa*), hence he is not only accountable to the people but also foremost, he is accountable to Allah. Allah said in the Holy Qur'an, “Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing.” (*an-Nisa'*, 4:58)

Furthermore, in one of his famous traditions, Prophet Mohammad (Peace Be Upon Him) stipulated as reported by Bukhari and Muslim: “All of you are shepherds and all of you are responsible for their herds: the leader is a shepherd and is responsible for his subjects.

A man is a shepherd to his family and responsible for his herd. A woman is a shepherdess in the house of her husband and is responsible for her herd. A servant is a shepherd to the wealth of his master and is responsible for his herd; Therefore, all of you are shepherds and all of you are responsible for your herds.”

The leaders are indeed accountable first to the electorate that elevated them to the level of governance and then accountable to the Almighty Allah (SWT) on the day of judgment, the Day in which wealth, children or power are useless, except those who came to Allah with a clean heart.

2. **Transparency** – In our secular concept of transparency, the Constitution in Section 28, Article II states, “Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.” It further states in Section 7, Art. III that “The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers, pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.”

In Islam, a Muslim leader should believe that Allah knows what is even in his mind, which is beyond

the scrutiny of the public eye. Allah said, "... And I know what you reveal and what you have concealed." (al-Baqarah, 2:33) Allah also said, "Whether you hid what is in your hearts or reveal it, Allah knows it all: He knows what is in the heavens, and what is on earth. And Allah has power over all things." (al-e-Imran, 3:29)

The former is flawed because the public officer has the discretion which one to divulge and which one to hide before public scrutiny. This is the reason why when one commits a crime, he would cover-up his offense because for as long as there is no evidence, he cannot be held liable. This is not the case in Islam, as explained earlier.

3. Consultation/Participation - In our secular concept of participation or consultation, the Constitution states in Sec. 16, Art. XIII that "The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms."

In Islam, the Prophet Muhammad (PBUH) was ordered by Allah, more than 1,4000 years ago, to take counsel of his followers in matters of state and politics: "So by mercy from Allah, [O Muhammad], you were lenient with them. And if you had been rude [in speech] and harsh in heart, they would have disbanded from

about you. So pardon them and ask forgiveness for them and consult them in the matter. And when you have decided, then rely upon Allah. Indeed, Allah loves those who rely [upon him]. (aal-e-Imran, 3:159). The institution arising from this revelation is known as Shura (i.e. consultation or advisory council).

In matters of politics and administration within society, it means a continuous dialogue between the participants – the ruled and the ruler – until a consensus emerges. It is a more effective process, but essentially more complicated, than one of simple majority vote. The concept of Shura is more germane to the concept of “win-win” solution in solving contentious issues. How? For example, if a group of 100 members are voting on an issue, 50 + 1 constitutes the majority. The 49 of them are not happy and did not change their position at all but they have to yield to the rule of the majority. However, in Shura, they need not be divided, as when two opposing sides were heard of their reasons, either side usually would withdraw its stand in favor of the other with more meritorious argument. The importance Islam placed on consultation (shura) is shown by the fact that an entire chapter in Qur'an is all about consultation.

4. Predictability or Rule of Law – Unlike the secular, which requires fair legal frameworks that are enforced impartially, which only refers to manmade laws, Islam is all-comprehensive as it involves the enforcement of manmade laws but also the divine laws (Shari'ah).

Its essence are: (a) Equality of everyone before the law and no one is above the law, where laws are based on objective, accessible rules; (b) Judiciary is independent; (c) Enforcement of law is civil and non-partisan; and (d) Conflict resolution occurs through the legal system and/or the political system without violence of the citizens.”

The Qur'an says, “O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both. So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed Allah is ever with what you do, Acquainted. (an-Nisa', 4:135)

Conclusion

The basic concepts of accountability, transparency, participation and predictability, constituting the core elements of “An Islamic Perspective on Good Governance” discussed herein are relevant concepts that the Transition Commission should take into consideration in drafting the Bangsamoro Basic Law.

Recommendations

In line with the findings of the Institute of Autonomy and Governance (IAG) as discussed earlier, there is a need to incorporate in the Bangsamoro Basic

Law the Islamic Perspective on Good Governance on two dimensions, structural and attitudinal, viz.:

1. The structural or institutional dimension would involve deliberate and well-programmed changes in the structural characteristics, hierarchy of authority, administrative procedures, goals, systems, responsibility, and bringing in new concepts and management systems in the Bangsamoro, that are Islamic but are within the framework of the Philippine Constitution. It may entail setting quality standards, redesigning systems and processes and giving emphasis on capacity-building, all aimed as getting the organization run better and smoothly.

2. The attitudinal or people-centered dimension would involve altering the attitudes, behaviors, mindset, values, skills and performance of both the managerial, supervisory and rank-and-file employees, as well as the constituents of the region. There are political and social values that can be derived from the Qur'an, which can be utilized to promote good governance in this contemporary time. These, however has to be reduced to pragmatic program and policies for its realization. Its ultimate objective is to produce men, public officials and the constituency, who have internalized Iman (faith), Islam, Taqwa and Ihsan.

Such is essential in order to enhance the quality of services rendered to the general public and in changing

how workers view their works, and perceive themselves in relation to the people they serve.

It is hoped that this conceptual framework on good governance would merit the consideration of the Transition Commission because after all self-determination or self-rule is all about governance.

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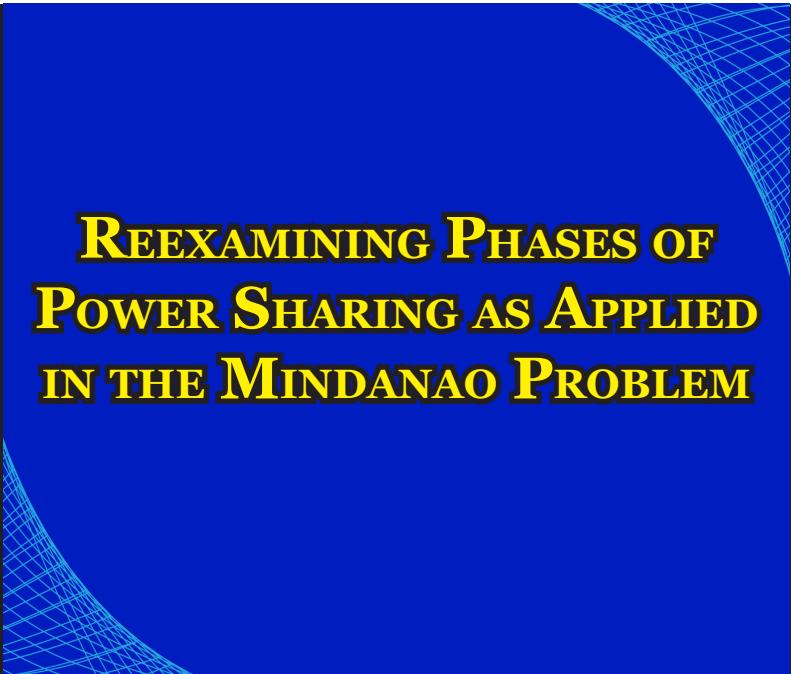
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REEXAMINING PHASES OF POWER SHARING AS APPLIED IN THE MINDANAO PROBLEM

REEXAMINING PHASES OF POWER SHARING AS APPLIED IN THE MINDANAO PROBLEM

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I. Introduction

This paper is guided by the following queries: (1) What are the different phases or stages of power sharing? (2) How far we have gone in trying to accommodate the right of the Bangsamoro people to self-determination? (3) What maybe the highest possible degree of self-rule or self-determination that can be validly granted to the Moro people under the existing legal framework? (4) How did the grant of self-governance to, and the demands of, the Moros interact and evolve?

The term power-sharing maybe taken to mean the process of diffusing or dispersing the concentration of governmental power, authority, functions, responsibilities and resources from the center¹ to the

periphery². As understood and practiced in the ambit of sovereignty-based conflicts, power-sharing may be equated to granting of self-determination. Viewed as a political process, the concept of power-sharing is given various labels by different writers. For example, experts in conflict resolutions offer this term power-sharing to solve intra-national disputes, while structuralists borrow such terminologies as sub-state, federated state, federacy, associated state and real union when dealing with the intergovernmental power structure of a sovereign state. On the other hand, leaders of national liberation movements are more comfortable to adopt the concept of autonomy, self-governance or independence in addressing their cause, while public administrationists oftentimes use the term decentralization, which embraces such models as deconcentration, delegation, devolution and even privatization, when referring to different mechanisms designed to bring the government closer to the people thereby making more effective and efficient the delivery of basic services to them.

The United Nations Centre for Regional Development, Synthesis Report Series, No. 3, adopted the definition of decentralization offered by Rondinelli³ where he coined this term to mean "the transfer or delegation of planning, decision-making or management authority from the central government and its agencies to field organizations, subordinate units of government, semi-autonomous public corporations, area-wide or regional authorities, or governmental

organizations.” Furthermore, in answering the quest for self-determination perpetuated by the Bangsamoro people, this concept is defined as “the process of transferring basic powers from the national to the local governments to allow maximum participation of the citizens in governmental and community affairs. The degree of local autonomy is dependent upon the extent decentralization is effected.⁴” Thus understood, the type and degree of decentralization depends on the extent of the authority delegated as well as the institutional arrangements employed in the process. But in all likelihood, decentralization may take place in two instances: (1) functional decentralization and (2) aerial decentralization. The former refers to the transfer of authority from a central ministry to functionally specialized organizations or public corporations, while the latter transfers authority to public organizations within defined political boundaries, such as city, district or provincial governments. As a state policy of ensuring local autonomy in the Philippines, ‘decentralization simply means the devolution of national administration, not power, to local governments. Local officials remain accountable to the central government as the law may provide.⁵’

Why do governments have to decentralize/diffuse their functions? Proponents of decentralization advance the following reasons: (1) strengthening of the administrative capacity of local units; (2) lessening of red-tape and highly bureaucratic procedures; (3) promotion

of more effective coordination of local planning, implementation and monitoring; (4) increasing the efficiency of central government by divesting itself from local problems; (5) fostering of democratic process of development planning; (6) more effective and efficient delivery of basic services by the constituent units; and, (7) increasing the flexibility and initiative of local leaders in dealing with unique situations.

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Interestingly, under Philippine laws, the different operative principles of decentralization were outlined as follows, to wit: (a) Effective allocation of respective powers, functions, responsibilities, and resources among local government units; (b) Establishment of an accountable, efficient, and dynamic organizational structure and operating mechanism in every local

government unit; (c) Strict enforcement of merit and fitness principle on the appointment and/or removal of local personnel; (d) Broadening of sources of revenue and share in national taxes and in the proceeds of the utilization and development of the national wealth within the respective areas of the LGUs; (e) Strict enforcement of chain of command among local units; (f) Grouping, consolidation or coordination of LGUs' efforts, services, and resources for their common benefit; (g) Enhancement of the capabilities of local government units by actively participating in the implementation of national programs and projects; (h) Creation of continuing mechanism to enhance local autonomy; (i) Joint efforts of both the local government units and the national government in the management and maintenance of ecological balance within their territorial jurisdiction; (j) Strengthening of effective mechanisms for the accountability of local government units to their respective constituents; (k) Improving coordination of national government policies and programs with those of the local government units; (l) Encouragement of the participation of the private sector in local governance; and, (m) Strict and continuous monitoring of the national government to its different decentralization measures to ensure their effectivity.⁷

II. Phases of Power Sharing

For the purpose of this discussion, phases of power sharing are loosely arranged hereunder from the least to the most degree of diffusion. They are *deconcentration*,

delegation, devolution, autonomy, federal system, federacy, special administrative region, free association, real union, personal union and independence.

A) Deconcentration

As can be culled from the definition of decentralization previously cited, deconcentration is the first stage of governmental dispersal of functions from the center. This involves the “transfer of functions and decision-making authority within the central government hierarchy, through shifting the workload from central ministries to field officers, the creation of field offices or the shifting of responsibility to centrally-controlled local administrative units.⁸⁷” Thus stated, deconcentration can be effected either through: (a) decongesting workloads by delegating them from central line agencies to field offices, (b) establishment of local or field offices, (c) transferring or reassigning national personnel to regional agencies, or (d) transferring of responsibility to local administrative units.

B) Delegation

Closely related to deconcentration is delegation to autonomous agencies. This model involves the “transfer of functions to parastatal organizations, special project implementation units or regional or functional development authorities, which can often operate outside of some central government regulations or may act as the

agent for the state in performing prescribed functions. Ultimate responsibility for those functions, however, remains with the central government." As defined, delegation emphasizes the assigning of specialized functions to regional organizations, authorities or agencies. In the Philippines, this is exemplified in the establishment of such government agencies, *inter alia*, as Southern Philippine Development Authority (SPDA), Southern Philippine Council for Peace and Development (SPCPD), National Commission on Muslim Filipinos (NCMF), Philippine Pilgrimage Authority (PPA), Growth and Equity in Mindanao (GEM) and other offices which were created for special thrusts and functions.

Comparatively, both deconcentration and delegation have shared a common feature, that is, there is no actual transfer of governmental power to regional or local agencies as both require only dispersal of governmental functions and responsibilities from the center. However, upon close scrutiny, one may also notice the following differences between them: While the former involves the sharing of any government function or program to field offices, the latter is concerned only on the assigning of specialized functions or tasks. In addition, deconcentration can also be effected through transferring of national personnel to regional agencies, but delegation cannot be done by this manner alone as this would always require the creation of specific offices.

C) Devolution

Technically speaking, the first stage of power-sharing from the central government is devolution which obliges the actual transfer of power to the local government units. As understood in public administration, this refers to the "transfer of functions or decision-making authority from the central government to local governments." In this arrangement, specific agencies and programs of the central government are already delegated to the local government units (LGUs). In the Philippine set-up, devolution of governmental powers to local governments was realized in the enactment of Republic Act No. 7160 (otherwise known as the Local Government Code of 1991). Section 17 thereof enumerated the five (5) government programs and services devolved to the LGUs which include: (a) agriculture, (b) environment and natural resources, (c) health services, (d) social welfare and development, and (e) public works and highways. This entails that LGUs in the Philippines have the legal competence to enact measures affecting these five programs.

With respect to sharing arrangement between the national government and the LGUs on national internal revenue taxes, Section 284, Chapter I (Allotment of Internal Revenue), Title III of RA 7160 provides: "Local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year as follows: . . .

(c) on the third year and thereafter, forty percent (40%).” This means the remaining sixty (60%) percent goes to the national government.

D) Autonomy

Remarkably, in places where local communities have distinct historical and cultural heritage, devolution of power comes in the form of an autonomy. This is a special form of local government set-up granted to a specified region which presupposes “the right and conditions of possessing power for self-governance.” This may also refer to the “political subdivision of a state vested with the authority to exercise within its jurisdiction such powers as are necessary that can best serve the interests of the inhabitants and its localities consistent with the provisions of self-governance.” As enshrined in the Philippine Constitution, this political set-up in the country came in the form of autonomous regions specially granted to Muslim Mindanao and the Cordilleras whose geographical areas they inhabited for generations shared common and distinct historical and cultural heritage, economic and cultural structures, and other relevant characteristics.¹⁰

By adopting the “principle of enumeration” in granting powers to local government units, the supreme law laid down those powers delegated to and are therefore within the exclusive prerogative of the autonomous regions to include: (1) Administrative

organization; (2) Creation of sources of revenues; (3) Ancestral domain and natural resources; (4) Personal, family, and property relations; (5) Regional urban and rural planning development; (6) Economic, social, and tourism development; (7) Educational policies; (8) Preservation and development of the cultural heritage; and, (9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.¹¹ Hence, following the doctrine of *inclusio unius est exclusivo alterius*, all powers not expressly granted to the regions are deemed reserved to the national government.

Although autonomy is just a variant or phase of decentralization, experts on local governments offered several distinctions of the two including, but not limited to, the following:

“1. Autonomy connotes an exercise of powers broader than those granted under decentralization which allows merely sharing of part of the governmental powers by the central government with the local government units;

“2. In autonomy, the purpose is to provide self-government; while in decentralization, the purpose is to share part of the governmental authority;

“3. Powers devolved in autonomy are substantially outside the direct control of the central government;

while in decentralization, powers shared are within the guidelines set by the central government subject, of course, to adjustment to suit local conditions; and,

“4. There is independence of government in autonomy while still forming an integral part of the central government; while in decentralization, it consists of handing over of some amount of administrative responsibility to local government units under the general supervision and control of central government.¹²”

In the above passages, one may notice that decentralization is equated into mere devolution of governmental functions and authorities to local government units; thus, the differences.

As distinguished from a federal set-up, in autonomy the range of powers given to local units is still limited in substance since the central government remains supreme in all matters not expressly granted to LGUs, be it local or national in scope.

In sum, a cursory reading of experiences of countries in the world reveals that autonomy exists only in nation-states having the following peculiarities: (1) if the structure of the government set-up is unitary¹³, (2) if there exists a clear sense of national (dominant) identity of the whole population, and/or (3) if there is a segment in the population ethnic or cultural minorities who share common and distinct historical and cultural heritage not

possessed by the dominant majority.

In the landmark case of Limbona vs. Mangelin, G.R. No. 80391, February 28, 1989; 170 SCRA 786, the Supreme Court distinguished political autonomy (decentralization of power) from administrative autonomy (decentralization of administration). Says the Court:

“Autonomy is either decentralization of administration or decentralization of power. There is decentralization of administration when the central government delegates administrative powers to political subdivisions in order to broaden the base of government power and in the process to make local governments ‘more responsive and accountable,’ ‘and ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress.’ At the same time, it relieves the central government of the burden of managing local affairs and enables it to concentrate on national concerns. The President exercises ‘general supervision’ over them, but only to ‘ensure that local affairs are administered according to law.’ He has no control over their acts in the sense that he can substitute their judgments with his own.

“Decentralization of power, on the other hand,

involves an abdication of political power in the favor of local government units declared to be autonomous. In that case, the autonomous government is free to chart its own destiny and shape its future with minimum intervention from central authorities. According to a constitutional author, decentralization of power amounts to 'self-immolation,' since in that event, the autonomous government becomes accountable not to the central authorities but to its constituency."

[underline supplied]

As applied in the Mindanao problem, it seems that any and all forms of autonomy granted to the Moros from the Regional Autonomous Governments of Marcos down to the Expanded ARMM under President Arroyo are mere administrative decentralization since the Bangsamoro people were not the ones who freely charted their political destiny but the Philippine Congress, being the legal sovereign in the country.¹⁴ The same thing is true for the proposed New Political Entity (NPE) envisioned in the Framework Agreement on the Bangsamoro (FAB) under President Aquino III.¹⁵

E) Federal System

From autonomy, following the next step in the ladder of power sharing is federal state. A federal system is one wherein governmental powers are divided into two spheres, one for the federal or central government

and the other for the state or local government. They exist side by side within a sovereign state each possessing defined prerogatives. Within its prescribed powers, functions and authority, each organ is autonomous and independent and neither can interfere with the affairs of the other.

Under this federal setup, there are three modes of distributing the powers and functions of governments.¹⁶ First is the Federal List which enumerates in the federal constitution all the reserved powers of the federal and central government, while those functions which are not included therein are deemed granted to the state or local government. In a unitary system, this arrangement is better known as the policy of exclusion. In such countries as Australia, Switzerland and the United States, the reserved powers of the federal government included the following, *inter alia*, viz: (1) national security and declaration of war, (2) foreign relations, (3) monetary system and currency, (4) external trade, (5) citizenship, (6) civil, political and human rights, (7) immigration, extradition inter-state quarantine, (8) suffrage, (9) federal civil service, (10) supreme court, court of appeals and constitutional tribunals, (11) national finance, (12) interstate trade and commerce, (13) postal and telecommunications, (14) national socio-economic planning, (15) grants-in-aid to the States, and (16) copyrights and intellectual property.¹⁷

State List is the second category of power

distribution which lays down all the delegated powers to the states and all those excluded powers are left to the federal government. This corresponds to the policy of enumeration in a unitary structure. In countries adopting this type of power sharing, like Canada, their state governments have jurisdictions over the following: (1) state and local elections, (2) state civil service, (3) state judicial system which includes all local courts, (4) operation of public transportation, (5) licensing public utilities, (6) state socio-economic planning, (7) state finance, (8) state grants-in-aid to local government units, (9) development of agriculture and fisheries, (10) mining and industries, (11) waterworks and irrigation system, (12) basic education up to secondary, (13) state and local language development, (14) social security and social welfare development, (15) police matters, law-enforcement and public safety, (16) state and local infrastructure, and entertainment and amusement.¹⁸

The third and last mode of power distribution is Concurrent List which embodies in the federal constitution the reserved powers of the federal government as well as the exclusive powers of the state governments.

Meanwhile, in order to make the grouping of states feasibly workable, Abueva (2007) prescribed basic criteria in creating component states under a federal system. They include the following, viz: (1) "some common ethno-linguistic and cultural identity

and history"; (2) "contiguous or adjacent territory or geographic location"; and, (3) "economic potential and viability as a region or state".¹⁹

Following the above criteria, there are eleven (11) proposed states that may comprise the Philippines, should it shift to a federal structure, which may be constituted as follows: (1) Bangsamoro State with 5 provinces of ARMM; (2) Davao Region and Central Mindanao with 8 provinces of Region XI and XII; (3) Western and Northern Mindanao with 12 provinces of Regions IX, X and XIII; (4) Central and Eastern Visayas with 10 provinces of Regions VII and VIII; (5) Western Visayas and Palawan with 7 provinces from Regions VI and Palawan; (6) Bicol Region with 7 provinces of Regions V and Romblon; (7) Southern Luzon with 8 provinces of Regions VIII-A and B; (8) Metro Manila with 13 cities and 4 adjacent municipalities; (9) Central Luzon with 7 provinces of Region III; (10) Cordillera Administrative Region; and, (11) Northern Luzon with 9 provinces of Regions I and II.²⁰

In like manner, the Primer on Local Governments in a Federal System (2005) identified several types of federal system according to distribution of powers and functions between the federal government and the state government.²¹ First is Cooperative Federalism wherein both the two organs of government "share responsibilities in certain areas/services to ensure the operation of national programs throughout the

country.” Ethiopia, Germany, South Africa, United Arab Emirates, United States, Venezuela and Yugoslavia adopt this variant of federalism. Competitive Federalism is another type in which the “federal government has a reduced role in state/local government,” while the state government have an increased role in managing their own affairs. Countries belonging to this type are Pakistan, Belgium, Australia, Brazil, Micronesia, Switzerland and the United Kingdom. The third type is Coercive Federalism in which the “federal government continues to ‘direct’ both national and state policies. Laws of state/local governments may be preempted by the federal government.” Nigeria belongs to this variant with a federal military government. Permissive Federalism is the last type of a federal structure whose power distribution is almost like that of a unitary system. Political set-up like this entails that the federal government not only supervises but even controls the affairs of the local organs. Examples of countries belonging to this type are Australia, India, Malaysia, Mexico and the Russian Federation.

At any rate, in any variant of federalism, there are certain factors which may facilitate its workability. They include: (1) the units must have shared a sense of community; (2) there should be no sharp inequalities in size, population and resources; (3) equitable sharing of economic resources; (4) geographical contiguity; and, (5) democratic form of government and greater decentralization.²² Of these factors, the issue of

heterogeneity in terms of size, population, resources and cultural underpinnings is perceived to be the most dominant one. In emphasizing this point, Nazir pointed:

“Heterogeneity is one of the reasons that states opt for federalism. But the sharp inequalities in size, population and resources (and cultural differences) create strains in a federal polity. It helps, if there are no sharp disparities in a federation and no single unit is powerful to dominate others. If there are more than one powerful units, a struggle for ascendancy can develop in policy matters, thus making federalism difficult to function.^{23”} [parenthetical enumeration supplied]

F) Federacy

The above challenge in a federal setup can be remedied by a political arrangement known as federacy. This is “a form of government where one or several substate units enjoy considerably more independence than the majority of the substate units.” This political modality is closely related with asymmetric federalism as both presuppose that one of their component substates enjoy more independence than the others. Otherwise put, in asymmetric federalism, “different constituent states possess different powers – one or more of the states has considerably more autonomy than the other states, although they have the same constitutional status. The division of powers between substates is not symmetric.^{24”} Countries practicing this administrative

structure include *inter alia* as: Canada and Quebec, Antigua and Barbuda, Iraq and Kurdistan, Papua New Guinea and Bougainville, United States and Puerto Rico, and India.²⁵ In the case of Canada and Quebec, the latter has been given higher political flexibility than other regions of the former to cater the peculiar needs for language and education.

In India, asymmetric federalism is observed in the very political structure of the Federal Government. As politically constituted, India consists of twenty-eight (28) States and seven (7) Union Territories. Except for Delhi and Pondicherry, all the seven Union Territories were governed directly by the Central, Union or Federal Government. Of the 28 States, they were classified into special category and non-special category States. The former are given a special status in dispensing plan assistance by the Union Government, while the latter were further divided into *low income, middle-income and high-income States*.²⁶

Among the component states, the most special treatment is given to Jammu and Kashmir state. For example, the Indian Constitution provides special provision in its Article 370 which institutionalizes the Instrument of Accession of Jammu and Kashmir. This legal document was decreed in 1947 by the Prince of Jammu and Kashmir, Maharajah Hari Singh, acceding to the Dominion of India under the law granting its independence, i.e., Indian Independence Act of 1947.²⁷

In relation to the Mindanao question, even if the Philippine government adopts a federal structure throughout the country, this problem may still perpetuate because the Bangsamoro people is a unique segment of the Philippine society whose historical heritage and cultural identity is very much different and distinguishable from the rest of the Filipinos. Thus, bearing this in mind, the MILF envisions the notion of asymmetry in its relation with the Government of the Philippines (GPH). This is its proposal in the most celebrated Framework Agreement on the Bangsamoro inked on October 15, 2012. The term asymmetry is clarified by its Peace Panel as follows:

“In a layperson’s term, symmetry connotes uniformity, similarity, evenness and proportionality. A symmetrical relationship is what defines the relationship between the Philippine state and its local government units from barangay, municipality, city, province and up to the regional level. All of these political units have the same laws, systems, rules, procedures and guidelines from Aparri down to Sulu. It assumes that each unit or region is the same and similar with one another and therefore should be subjected to the same systems and procedures.

“The Bangsamoro struggle for right to self determination is basically the antithesis to this assumed symmetrical relationship. The Moros are claiming they are different from the majority Filipinos with respect to culture,

religion, language, practices, way of life, history and political aspiration as a distinct nation. The Bangsamoro identity is an anathema of the symmetrical relationship of the unitary system in the Philippines. It simply says, 'No, we are not the same with the majority Filipinos and therefore we should have a different, dissimilar, asymmetrical relationship within the Philippine state.'²⁸

G) Special Administrative Regions

In terms of intergovernmental relations, another closely associated with the notion of federacy or asymmetric federalism is the Special Administrative Regions of the People's Republic of China (PRC), consisting of Hong Kong and Macau. As stipulated in their respective Basic Laws, each of these two territories has its own supreme court, extradition policies, immigration and border control, currency, and customs policies. In their intergovernmental dealings, the PRC exercises only such functions relating to diplomatic affairs, national defense, and representations in international organizations.²⁹

H) Free Association

After a federal set-up, it can be said that the next higher in degree of power-sharing is free association (or associative relations or associated states). Under this political nomenclature, the associated state "is a fully

self-governing state that is free to manage its internal and external affairs, except for defense”³⁰. The associate and the principal established a durable link. Thus, the former became the minor partner of the latter in their formal, free relationship.

In associative relations, although the associates are not fully recognized as sovereign states, they have the right to participate in international conferences and conventions as well as in regional organizations. Furthermore, they can also maintain diplomatic missions, can have their own flag, and can be members of such international bodies as the United Nations and the World Bank.³¹

In the case of Cook Islands and New Zealand, the latter can act only on behalf of the former in foreign affairs and defense matters upon the request of Cook Islands and only in pursuance to its advise and consent. In their relations with the United States of America, citizens of the Marshall Islands, the Federated States of Micronesia and the Palau enjoyed only defense, US funding grants and social services. These government amenities granted by the US Federal Government were specifically contained in their Compacts of Free Association. Although the currency in these territories is dollar they issue their own travel documents. They also independently conduct their own foreign affairs and were admitted members of the United Nations as individual international persons. For its parts, the United States provided them defense in case of external military

attacks and can bar other countries from having access to these countries for military purposes.³²

In the landmark case of The Province of North Cotabato vs. The Government of the Republic of the Philippines Peace Panel on the Ancestral Domain, the Supreme Court of the Philippines made the following pronouncement relative to the notion of free association, viz:

“An association is formed when two states of unequal power voluntarily establish durable links. In the basic model, one state, the associate, delegates certain responsibilities to the other, the principal, while maintaining its international status as a state. Free association represents a middle ground between integration and independence. In international practice, the ‘associated state’ arrangement has usually been used as a transitional device of former colonies on their way to full independence . . .”

In other words, in a free association, the principal state and its associate are not in equal footing because the former still plays a one-sided role as against the latter, that is, as protector of the associate against any form of the external threats.

I) Real Union

As compared to associative relations, real union is a form of power sharing which postulated a more or less equal footing between and among the component units. This is a political formula in which “two or more states are merged under a central authority through which they act in the direction of their external affairs. The states forming this union do not lose their status as such but their respective international personalities are extinguished and blended in the new international person which, however, is not considered a state.^{33”} In this administrative arrangement, states forming the union are equal in their relations with one another as neither of them can perform a function not available to the other units. As individual, they cannot assert their own rights nor can they perform their own international obligations since their respective international personalities are combined together to form one person (i.e., the Union) which is not a state in the real sense of the word. Thus, politically, all the component states are treated as one person in the eyes of international community. This political engagement existed between the Kalmar Union (1397-1524), Austria and Hungary (1867-1918), and Poland and Russia (1815-1832).³⁴

J) Personal Union

Another type of political union is personal union. This is formed “when two or more states are brought

together under the same monarch, who nevertheless does not constitute one international person for the purpose of representing all of them . . . each member remains a state and an international person, although its external policies are dictated by the same monarch, who also directs the foreign affairs of the other members of the union.³⁵" In short, two or more sovereign states are combined under the same monarch. This may result from coincidence, as when a princess of one kingdom got married to a king of another and their child inherits the throne of both countries; or virtual annexation, as when the union is used to prevent an impending uprising.³⁶

In this set-up, there is no single international person to represent all the constituent states in the conduct of their foreign activities. The role of the common monarch comes only in matters of their external affairs being the single head of state of these member-entities. Therefore, in strict sense, personal union cannot be considered as a form of power-sharing as the member states are no longer under any single sovereign international political entity.

K) Independence

The final and highest stage of power-sharing is independence. Under this power concession, a freed state (i.e., the newly-born state) is already sovereign in all its internal and external affairs from its mother state. As put by this writer, in independence, the newly-born

state and the former mother state “shall become two (2) sovereign and independent political entities, both of them possessing their own respective internal and external freedom in the conduct of their affairs without any connection between them, except in their foreign relations, because neither one is beholden to the other.^{37”}

From the enumeration above, it can be deduced that deconcentration and delegation do not actually qualify as forms of power sharing since they only entail transfer of functions, services, responsibilities or personnel. Different phases of actual power-sharing take place, in an ascending manner, from devolution up to independence. In any of these stages, governmental powers are actually and increasingly dispersed or shared from the central (or mother) to the local (or new) government.

III. Dynamics of the Mindanao Problem³⁸

This section consists mainly of two parts: (1) The different evolving demands of the Bangsamoro people as articulated by their various liberation movements, and (2) the varied solutions to these demands offered by the Philippine government. However, in order to properly understand the dynamics of this problem, the author first presented herewith the two opposing, and at times colliding, views regarding this issue at hand.

Historically, the first foreign scholar to unveil

the American sinister design against the Moro country was Dr. Najeeb M. Saleeby. In the guise of defining the Mindanao problem, he asserts:

“By the Moro Problem is meant that method or form of administration by which the Moros and other non-christians who are living among them, can be governed to their best interest and welfare in the most peaceful way possible, and can at the same time be provided with appropriate measures for their gradual advancement in culture and civilization, so that in the course of a reasonable time they can be admitted into the general government of the Philippine Islands as qualified members of a republican national organization. We have gone to Moroland to exploit the resources of the country nor to rule it for our benefit. Its government is a sacred trust and the principle of ‘the Philippines is for Filipinos’ was meant to apply to Mindanao and Sulu in the same sense as that in which it was applied to the Bisayas and Luzon. In devising a form of government for Moroland we, therefore, strictly governed by the best interest of the people themselves. The establishment of a peaceful state of affairs and the preservation of the present prosperity of the country become at once our binding obligation and demand urgent consideration. Nor can we overlook the future progress and development of the people. Moroland is destined to ultimately

form one or more provinces which will be integral parts of the general provincial organization of the Philippine Islands.^{39”} [underline supplied]

Being the colonial successor of the United States government, the present-day Filipino-run republics inherited the above-cited perspective in dealing with the Muslim South.

On the other hand, speaking on the Bangsamoro side regarding the Moro problem was the MILF Peace Panel Chair, Mohagher Iqbal. In laying the proper predicate to define the problem, Iqbal first contextualized the MILF’s peace engagement with the Government of the Philippines. Says he:

“For the MILF, the peace journey with the government is anchored on the principles of freedom and right to self-determination (RSD), equality of peoples, justice, and moreover, on the ‘totality of relationship’ between the Bangsamoro people and the Philippine state.

“The problem, to the MILF, is about giving the Moros their RSD as enunciated in international law, which will in the end determine which of the various shades of self-governance they freely choose: associative, federative or any other form of self-determination, although the most natural meaning or expression of RSD is independence.^{40”}

These different views on the Moro problem presupposed different interests. As indicated by this writer in one of his articles, “the interest of the Philippine government in the Mindanao conflict is to solve this problem without compromising the Constitution thereby still preserving the national sovereignty as well as the territorial integrity of the Philippines, while that of the MILF and other Moro fronts is to achieve the highest possible degree of self-determination of the Bangsamoro people to be exercised in their homeland Mindanao.⁴¹”

A. Moro Demands

In the beginning, the Moro people attempted to adopt a more democratic and civilized way of vindicating their right to freely determine their political future. They sent multiple letters of declarations and appeals to the United States government for possible grant of separate self-rule for the Moro country once an independence is given to the Filipinos.

First was on June 9, 1921, where a Petition from the Moros of Sulu was forwarded to the United States Government decrying:

Whether or not independence is granted by Congress of the United States of America to the Northern Provinces of the Philippines, it is [the] desire of the people of Sulu that the Sulu Archipelago be made permanent American territory of the United States of America . . . the

Filipino people in the northern provinces of the Philippine Islands has no right to include our territory in theirs . . . ⁴²

We are independent for 500 years. Even Spain failed to conquer us. If the US quits the Philippines and the Filipinos attempt to govern us, we will fight. ⁴³

At about three years later, this blunt appeal was followed by the Declaration of Rights and Purposes on February 1, 1924 by more than 500,000 Moros of Mindanao and Sulu which was forwarded to the U.S. Congress warning: "... In the event that the United States grants independence to the Philippine Islands without provision for our retention under the American flag, it is our firm intention and resolve to declare ourselves an independent Constitutional sultanate to be known to the world as Moro Nation. It is the duty of the Congress of the United States to make provision at once for the security and protection promised to us when we surrendered our arms to the United States Army. This promise is just as sacred as any alleged promises you have made to the Christian Filipinos. You have left us defenseless, and is your duty to protect us or return to us the weapons you took from us and which we freely gave you, relying on your promises." ⁴⁴

At the dawn of the promulgation of the 1935 Constitution, the historic Dansalan Declaration was made on March 18, 1935 expressing in the strongest

term the burning desire of the Moro people relative to the impending grant of self-rule to the Filipinos. The dispositive portion of its text is as follows:

In the agreement that we have arrived at (i.e., Declaration) our people gave their unanimous approval. We would like to inform you (i.e., US Congress) that because we have heard that the U.S. is going to give Philippine Independence through the efforts of Hon. Quezon and others, we want to tell you that the Philippines, as it is known to the American people, is populated by two peoples with two different religious practices and traditions. The Christian Filipinos occupy the islands Luzon and the Visayas. The Moros predominate in the islands of Mindanao and Sulu. With regard to the forthcoming Philippine Independence, we foresee that the condition will be characterized by unrest, suffering and misery

...

We do not want to be included in the Philippine Independence (for) once an independent Philippine is launched there will be trouble between us and the Christian Filipinos because from time immemorial these two peoples have not lived harmoniously. . . It is not . . . proper to have two antagonizing peoples live together under the Philippine Independence . . .

Should the American people grant the Philippine Independence, the islands of Mindanao and Sulu should not be included in that Independence. Our public land must not be given to other people other than the Moros . . .⁴⁵

Nevertheless, amidst these threatening calls for a separate nationhood to be given to the grieving Moro nation, the American authorities eschewed all angles of separation between the Filipinos and the Moros when the American-proposed 1935 Constitution was promulgated on May 14, 1935 which formally organized the Commonwealth Government of the Philippines. As envisioned, this served as the transitional mechanism for the granting of the Philippine Independence on July 4, 1946.

Believing that peaceful means of voicing their sentiments cannot shake the ears of those in power, the Bangsamoro people revised their path to nationhood by employing the force of arms.

It is worth remembering that even before the conception and the eventual formation of the Mindanao Independence Movement (MIM)⁴⁶ of Datu Udtog Matalam in 1968, there were already various Muslim student organizations existing in Manila sympathetic to the plight of the Moros in Mindanao. They were the Union of Islamic Forces and Organization (UIFO), the Muslim Progress Movement (MPM), the Philippine

Muslim Nationalist League (PMNL), the Students' Supreme Council of the Philippines, the Muslim Students Association of the Philippines (MUSAPHIL), the Bismillah Brotherhood, the Al-Muslimin Fraternity, to name only a few. All of them became the vanguards of the Muslim sentiments in the Moro homeland. In those days, Moros did not have yet any formal revolutionary liberation organization.

As electrified by 'the systematic extermination of the Muslim youth like the Corregidor Fiasco⁴⁷, the policy of isolation and dispersal of the Muslim communities . . . pursued vigorously by the government to the detriment of the Muslims', the MIM was conceived so 'that a government shall be organized and established for the Muslims inhabiting the aforesaid particular areas of the Islands of Mindanao, Sulu and Palawan, . . . said government to be independent from all states and be equal with others under the laws of civilized nations.' More specifically, the preamble of the MIM Manifesto clarified the ultimate objective of the movement in this bold declaration, viz:

"The Muslim inhabitants of Mindanao, Sulu and Palawan . . . make manifestation to the whole world its desire to secede from the Republic of the Philippines, in order to establish an ISLAMIC STATE . . . under the blessings of Islamic Universal Brotherhood . . . do promulgate and make known the declaration of its independence

from mother country, the Republic of the Philippines.⁴⁸"(Underline Supplied)

However, this noble objective was put in limbo after much threats and enticements offered by the government which reached its highlight when former President Ferdinand Marcos met Datu Udtog Matalam in 1971.

Although it came out only in the open in October 1972, but the Moro National Liberation Front (MNLF) was already founded and organized in 1969. As known to everyone, at its conception the MNLF recruited its members 'with an original objective of regaining the independence of the Bangsamoro People and separate its sovereignty from the government of the Republic of the Philippines (GRPH)⁴⁹'. Specifically, its Manifesto declares:

"We, the five million oppressed Bangsamoro people, wishing to free ourselves from the terror, oppression and tyranny of Filipino colonialism which has caused us untold sufferings and miseries by criminality usurping our land, by threatening Islam through wholesale destruction and desecration of its places of worship and its Holy Book, and murdering our innocent brothers, sisters and folks in a genocidal campaign of terrifying magnitude' hereby declares 'the

establishment of the Bangsamoro Republic⁵⁰”.
(Underline Supplied)

Nonetheless, this burning, noble mission of the MNLF for freedom and independence was reduced to mere autonomy-arrangement when they signed with the Philippine Government the Tripoli Agreement on December 23, 1976⁵¹. The MNLF, as a movement, was further demobilized after they agreed with the Final Peace Agreement last September 2, 1996. As an effect of this peace deal, many of its members either became local politicians or returned to a civilian life.

In asserting itself as the legitimate revolutionary organization toiling to free the Bangsamoro nation, the MILF has been envisioning also to establish a separate territory and government for the Moros where they could freely exercise their Islamic way of life to the fullest extent possible. This can be discerned from the writings of the late MILF Founding Chairman Salamat Hashim in his book, “The Bangsamoro Mujahid: His Objectives and Responsibilities,” where he succinctly proclaimed:

“The ultimate objective of a Muslim community or Ummah is to make supreme the Word of Allah. It means that we, as a community of Muslims, must subordinate every aspect of our worldly wishes and desires to the Word of Allah, in the matter of adopting our political systems as well as our legal, economic, educational and social system.

“The meaning of making supreme the Word of Allah is capsulized in the following: 1. The establishment of a true Muslim community; 2. The establishment of a genuine Islamic system of government; and, 3. The application of a real Islamic way of life in all aspects of our life.

“These are our final objectives and we all know, of course, that these objectives cannot be attained until we are free and unfettered in the exercise of our legitimate rights to self-determination. Our concept of self-determination is complete independence, or in the least, a meaningful autonomous government embracing the entire traditional homeland of the Bangsamoro, namely: Mindanao, Basilan, Sulu, Tawi-Tawi and Palawan.⁵²”

The above view was confirmed by Chairman Salamat in one of his interviews where he confided that the ultimate objective of his group is “to establish an independent state and government and implement Shari’ah (Islamic) law.”⁵³

However, after Salamat’s death in 2003, this bid of the MILF for independence first dwindled in the aborted MOA-AD (Memorandum of Agreement-Ancestral Domain) where its Peace Panel envisioned the granting of an associated state for the Bangsamoro people. Said frustrated peace deal acclaims in its Section

on Governance, Paragraph 4 thereof:

The relationship between the Central Government and the BJE⁵⁴ shall be associative characterized by shared authority and responsibility with a structure of governance based on executive, legislative, judicial and administrative institutions with defined powers and functions in the Comprehensive Compact . . . ⁵⁵ (Underline Supplied)

As explicitly stated above, the MILF was then aspiring for an associative relationship with the Philippine government under the MOA-AD peace scheme. However, after it was declared as repugnant to the supreme law, the MILF modified and further mellowed down its position by aspiring for a mere sub-state arrangement. Its Peace Panel members asserted in one of their series of dialogue that:

“. . . the MILF is proposing for the establishment of a Bangsamoro sub-state as a peace formula for a negotiated political settlement of the armed conflict.

“A sub-state is basically a political subdivision of a state which is vested with self-government and law-making powers within a defined autonomous territory. As the term implies, it is not equivalent to an independent state because it is still under a

parent state which is politically mature enough to allow itself to share a portion of its sovereignty to a sub-state level entity.”⁵⁶ (Underline Supplied)

However, some peace writers opined that, under the recently signed framework agreement between the MILF and the GPH, the former’s quest for sub-state under the Philippine governmental set-up is now a dead issue. They insisted that the provisions of the Framework Agreement do not anymore contemplate of any variant of statehood (either sub-state, federated state, associated state) to be granted to the Moros. Hence, the most that the MILF can get, should it be implemented, is not higher than an autonomous government.

As can be recalled, Dean Marvic Leonen, the former Chairman of the GPH Peace Panel, once stated that “the peace compact with the MILF and the creation of the Bangsamoro do not need a change in the Constitution; both depend on possibilities offered by the Constitution itself.”⁵⁷ And because the Framework Agreement does not require the change in the fundamental law it follows that only an autonomous region/government (like the ARMM) “is affirmed as the constitutionally-prescribed form or degree of internal self-determination for the Bangsamoro people. Consequently, the only way for it to go higher in degree of self-determination is through constitutional change.”⁵⁸

To sum up, the Moros’ quest for self-determination

is following a descending path, that is, from the higher to a lower degree of self-determination. As indicated, all of their liberation fronts had started aspiring for the highest degree of power-sharing (i.e., independence) but they all too later softened their position by agreeing to some sort of lower degree of power concession, such as an autonomy arrangement.

B. Government Responses

This part discusses the different politico-administrative structures and other peace initiatives implemented by the Philippine government as a solution to the Mindanao conflict. Each is presented herein highlighting its form (i.e., area of coverage) and substance (i.e., powers or functions).

1) Regional Autonomous Governments of Regions IX and XII (PD 1618)

It must be recalled that the spirit of Bangsamoroism⁵⁹ among the Moro people was brought to the fore during the first term of Ferdinand E. Marcos as President of the Philippines in the later part of the sixties. As a burning fuel to the formation of the Moros' liberation movements, this Bangsamoroism persisted until the second term of Marcos which fostered serious political threat and economic disturbance to the Islands. In his attempt to save the country from further political turmoil and economic recession, Marcos unilaterally

initiated a peace negotiation with the Moro National Liberation Front (MNLF). This resulted to the crafting of the Tripoli Agreement on December 23, 1976. Although it contains nineteen stipulations, but two of them are most fundamental, viz: (1) ‘The establishment of Autonomy in Southern Philippines within the realm of the sovereignty and territorial integrity of the Republic of the Philippines’ consisting of thirteen provinces and nine cities⁶⁰, and (2) ‘The Government of the Philippines shall take all necessary constitutional processes for the implementation of the entire Agreement.’

Following the mandate of the Agreement, President Marcos unilaterally implemented the said peace deal. On March 25, 1977, he issued Proclamation No. 1628 declaring autonomy in Southern Philippines. This presidential issuance was followed by the conduct of a ‘referendum-plebiscite’ on April 17, 1979 and the enactment of the Batas Pambansa Blg. 20 which provided for the organization of the Sangguniang Pampook (Regional Assembly) in Regions IX (Central Mindanao) and XII (Western Mindanao)⁶¹. After the election of the representatives to the two Sangguniang Pampook was held on May 7, 1979, the President issued Presidential Decree No. 1618 ‘implementing the organization of the Sangguniang Pampook and the Lupong Tagapagpaganap ng Pook (Regional Executive Council) in the two Regions named above.

Interestingly, one may notice that although there

was only one autonomous government contemplated in the 1976 Tripoli Agreement, Marcos implemented two (2) Regional 'Autonomous' Governments. The obvious reasons were two: First, in order to exclude those provinces and cities not belonging to these two Regions thereby reducing the coverage-area of the autonomy. As a result, since the Provinces of Palawan, Davao del Sur and South Cotabato, and the Cities of Puerto Princesa and Ganaral Santos did not belong to either Regions IX or XII, they were gone out of the blue. Second, the intention of Marcos to merely administratively reorganize these Regions in question cannot be legally feasible without excluding those LGUs not belonging to them because under the Constitution then existing, no LGU can be created, divided, merged, abolished or its boundaries substantially altered unless through a law enacted by the Congress⁶², not through the simple act of an executive issuance.

With respect to its substance, Section 4 of the Decree provides that The Autonomous Regions shall undertake all internal administrative matters on regional affairs with respect to: "(1) Organization of regional administrative system; (2) Economic, social and cultural development of the Autonomous Region; (3) Agricultural, commercial and industrial programs for the Autonomous Region; (4) Infrastructure development for the Autonomous Region; (5) Urban and rural planning for the Autonomous Region; (6) Taxation and other revenue-raising measures as provided for in this

Decree; (7) Maintenance, operation and administration of schools established by the Autonomous Region; (8) Establishment, operation and maintenance of health, welfare and other social services, programs and facilities; (9) Preservation and development of customs, traditions, languages and culture indigenous to the Autonomous Region; and (10) Such other matters as may be authorized by law, including the enactment of such measures as may be necessary for the promotion of the general welfare of the people in the Autonomous Region." As the law provides, it was crystal clear that the objective of the Presidential Decree was a mere administrative reorganization of the two affected Regions. It was never meant to create a real autonomous government in the real sense of the word. Therefore, to ensure that they would exercise only administrative powers, President Marcos inserted various legal safeguards, viz:

- a) Section 3 (Internal Autonomy) of the PD 1618 provides "*Within the framework of the national sovereignty and territorial integrity of the Republic of the Philippines and its Constitution, internal autonomy shall be established... in accordance with provisions of the Constitution and the laws of the Philippines.*" (italics supplied)
- b) Section 4 (Scope of Internal Autonomy) thereof provides "*The Autonomous Regions shall undertake all internal administrative matters for the respective regions.*" (italics supplied)

c) Last paragraph of Section 7 (Powers of the Sangguniang Pampook) provides “*The President shall exercise such powers as may be necessary to ensure that enactment and acts of the Sangguniang Pampook and the Lupong Tagapagpaganap ng Pook are in compliance with this Decree, national legislation, policies, plans and programs.*” (italics supplied)

d) Section 16 (Term of Office) thereof provides “*The President . . . may remove the Lupon Chairman or any member of the Lupong Tagapagpaganap ng Pook.*” (italics supplied)

e) Section 20 (Coordination) thereof provides “*The Lupon Chairman or any member of the Lupong Tagapagpaganap ng Pook shall be responsible to the President . . . They shall keep the President . . . informed at all times of the status of their administration . . .*” (italics supplied)

f) Section 22 (Taxing Power) thereof provides “*The Sangguninag Pampook may impose taxes, fees or charges through the enactment of regional tax measures in accordance with such guidelines as may be issued by the Minister of Finance.*” (italics supplied)

g) Section 24 (Projects Funded Out of the Income of the Autonomous Regions: Guidelines) thereof provides “*All projects funded from income derived from the operations and exercise of taxing and other revenue-raising powers of the Autonomous Region shall be subject . . . to such*

budgetary guidelines as may be formulated by the Ministry of the Budget.” (italics supplied)

h) Section 25 (Budget Preparation and Processing) thereof provides “The Lupong Tagapagpaganap ng Pook shall . . . prepare the budget for the Autonomous Regions . . . and such budget shall be . . . subject to the usual processing of the Ministry of the Budget before it takes effect . . .”

i) Section 28 (National Budgetary Aid Release Channel and Guideline) thereof provides “All budgetary aid releases for regional projects of the Autonomous Regions . . . shall be subject to such guidelines as may be issued by the Ministry of the Budget.”

j) Section 35 (Relationship with the National Government) thereof provides “(a) With respect to legislation, national laws shall be supreme vis-à-vis regional laws enacted by the Sangguniang Pampook; (b) The President shall have the power of general supervision and control over the Autonomous Regions . . . ; (c) The Lupong Tagapagpaganap ng Pook shall report regularly to the President . . .” (italics & underline supplied)

Finally, in clarifying the political status of the Regional Autonomy granted under PD 1618, the Supreme Court of the Philippines made the following pronouncement in the Limbona Case,⁶³ to wit:

"The autonomous governments of Mindanao were organized in Regions IX and XII by Presidential Decree No. 1618 promulgated on July 25, 1979. Among other things, the Decree established 'internal autonomy' in the two regions '[w]ithin the framework of the national sovereignty and territorial integrity of the Republic of the Philippines and its Constitution,' with legislative and executive machinery to exercise the powers and responsibilities specified therein . . . An examination of the very Presidential Decree creating the autonomous governments of Mindanao persuades us that they were never meant to exercise autonomy . . . in which the central government commits an act of self-immolation. Presidential Decree No. 1618 . . . mandates that "[t]he President shall have the power of general supervision and control over Autonomous Regions."

Given the fact that these two Autonomous Regions were still politically and fiscally tied up to the National Government, the MNLF concluded they were only autonomous in letter but not in spirit. Hence, they persistently rejected it until the downfall of Marcos in the so-called EDSA People Power on February 23-25, 1986.

2. Autonomous Region in Muslim Mindanao (RA No. 6734)

Being mindful of the government's commitment to the 1976 Tripoli Agreement, President Corazon Cojuangco Aquino constitutionalized the autonomy formula of addressing the Moro question by incorporating in the fundamental law provisions on autonomous regions. Article X, Section 15 of the 1987 Philippine Constitution provides: "There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinct historical and cultural heritage, economic and cultural structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as the territorial integrity of the Republic of the Philippines." Thus expressly stated, under the present constitution, the only form of self-rule that can be legally given to the Moro people is nothing higher than an autonomy setup. Any political structure higher in degree of self-governance than this is constitutionally impermissible and therefore legally void.

Viewed as a prelude to national integration, the highest court of the land quoted Commissioner Blas Ople's remarks during their plenary session in the drafting of the 1987 Constitution where he referred the move to grant autonomy to the Muslim South as:

“. . . the recognition that the Muslim Mindanao and the Cordilleras ‘do not belong to the dominant national community’ as the justification for conferring on them a ‘measure of legal self-sufficiency, meaning self-government, so that they will flourish politically, economically and culturally,’ with the hope that after achieving parity with the rest of the country they would ‘give up their own autonomous region in favor of joining the national mainstream.’”

“The objective of the autonomy system is to permit determined groups, with a common tradition and shared social-cultural characteristics, to develop freely their ways of life and heritage, exercise their rights, and be in charge of their own business. This is achieved through the establishment of a special governance regime for certain member communities who choose their own authorities from within the community and exercise the jurisdictional authority legally accorded to them to decide internal community affairs.”⁶⁴

In other words, what the Commissioners really wanted in incorporating provisions on regional autonomy in the Constitution was just an administrative autonomy.

This, in effect, entails that in the very inception of the autonomy proposal in the Constitution, its

framers did not really intend to grant a genuine political autonomy to the Moros to freely chart their political future. In clarifying the extent of autonomy for the Muslim Mindanao, the Supreme Court reminded in the Disomangcop Case, *inter alia*, that “the creation of autonomous regions does not signify the establishment of a sovereign distinct from that of the Republic, as it can be installed only ‘within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.’”⁶⁵ Said Court further cited the words of Commissioner Nolledo in the record of the 1986 Constitutional Commission, *viz*: “We are not granting sovereignty to the autonomous region. That is why the term ‘power of autonomous region’ was appropriately used because as an accepted principle in constitutional law, sovereignty is indivisible.”⁶⁶

The constitutional injunction on autonomous regions was first implemented in the enactment of the Republic Act No. 6734⁶⁷ which provided for the organization of the Autonomous Region in Muslim Mindanao (ARMM) as an implementation of the Tripoli Agreement. After the plebiscite was conducted, it came out that from the thirteen provinces and nine cities stipulated in the 1976 Peace Agreement, only the provinces of Maguindanao, Lanao del Sur, Sulu and Tawi-Tawi, without any city, opted to join.

One of its important provisions states that “The

Regional Governments shall exercise powers and functions necessary for the proper governance and development of all the constituent units within the Autonomous Region . . .” Further, the law affirmed that “The Autonomous Region is a corporate entity with jurisdiction in all matters devolved to it by the Constitution and this Organic Act as herein enumerated: (1) Administrative organization; (2) Creation of sources of revenues; (3) Ancestral domain and natural resources; (4) Personal, family and property relations; (5) Regional, urban and rural planning development; (6) Economic, social, and tourism development; (7) Educational policies; (8) Preservation and development of the cultural heritage; (9) Powers, functions and responsibilities now being exercised by the departments of the National Government except: (a) Foreign affairs; (b) National defense and security; (c) Postal service; (d) Coinage, and fiscal and monetary policies; (e) Administration of justice; (f) Quarantine; (g) Customs and tariff; (h) Citizenship; (i) Naturalization, immigration and deportation; (j) General auditing, civil service and elections; (k) Foreign trade; (l) Maritime, land and air transportation and communications that affect areas outside the Autonomous Region; and (m) Patents, trademarks, trade names, and copyrights; and (10) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the Region.”

Thus stated, the law adopted a combination of the ‘policy of enumeration’ as well as the ‘policy of

exclusion' in prescribing the powers of the regional government. As compared to the Regional Autonomous Governments established by Marcos, the regional government established under RA 6734 was a more real autonomous entity since it was affirmed as a 'corporate entity'. This implies it had a civil personality to exercise all corporate powers granted by the general law. In all intent and purposes, it was a political subdivision of the Philippines that came in the form of public corporation.

Consequently, in pursuant to the powers granted to the former ARMM, the following were some of the line agencies devolved, viz: Departments of Agriculture, Agrarian Reform, Interior and Local Government, Social Welfare and Development, Science and Technology, Labor and Employment, Environment and Natural Resources, Tourism, and Education; Commission on Human Rights, Office on Youth Affairs, among others.

Remarkably, with respect to taxes, fees and charges imposed on natural resources, the sharing arrangement between the Autonomous Region and the National Government is sixty percent (60%) and forty percent (40%), respectively⁶⁸. However, it was absolutely prohibited from imposing all forms of income taxes as well as those levied on strategic minerals such as uranium, coal, petroleum, and other fossil fuels, mineral oils, all sources of potential energy.

However, despite the granting of vast powers

to the regional autonomy, still legal luminaries had identified several legal safety measures inserted in the law to limit the degree of self-governance being enjoyed by the Muslim Mindanao. The most contested ones were as follows:

- a) The preamble of RA 6734 says: "The people of the Autonomous Region in Muslim Mindanao . . . do ordain and promulgate this Organic Act through the Congress of the Philippines." (underline & italics supplied)
- b) Article VI, Section 1 thereof provides: "The President of the Philippines shall exercise general supervision over the Regional Government . . . to ensure that national and regional laws are faithfully executed." (italics & underline supplied)
- c) Article IX, Section 2 thereof provides: "There is hereby created a Shari'ah Appellate Court which . . . shall have jurisdiction over cases involving (only) persons, family and property relations." (italics & underline supplied)
- d) Article IX, Section 17, Paragraph 3 thereof provides: "In case of conflict between the Muslim Code or the Tribal Code on the one hand, and the national law on the other, the latter shall prevail." (underline supplied)
- e) Article XIII, Sections 1 and 2 thereof

provides: “Consistent with the Constitution and national policies, the Regional Government may enact regional laws pertaining to the national economy and patrimony . . . except for strategic minerals such as uranium, coal, petroleum, and other fossil fuels, mineral oils, all sources of potential energy . . .” (italics & underline supplied)

f) Article XVI, Section 2, Paragraph 1 thereof provides: “The Regional Assembly shall, consistent with the provisions of the Constitution and national policies, enact measures to provide and expand health and welfare services;” and, (italics & underline supplied)

g) Finally, Article XVIII [Amendments or Revisions], Sections 1 and 2 thereof respectively provides: “Consistent with the provisions of the Constitution, this Organic Act *may be amended or revised by the Congress of the Philippines . . .*” and “The Regional Assembly shall have the power to initiate proposals for amendment to or revisions of this Organic Act . . . or it may call for a Regional Consultative Commission to propose the amendment or revision. In any case, the amendment or revision shall *require the approval of the Congress of the Philippines.*” (italics supplied)

Substance wise, considering the amount of powers delegated to this autonomous political entity, the MNLF were partly convinced that said Tripoli Agreement was finally in place in Southern Philippines. However, reckoning the proposed area of autonomy agreed upon

in the 1976 peace pact, they retorted that the peace agreement was implemented in letter and spirit but not in form since the entire 13 provinces and 9 cities were not covered by the former ARMM. However, the Philippine government painfully explained to the MNLF that, as enjoined by the Tripoli Agreement itself, any step to its implementation is 'subject to constitutional processes'. This constitutional parameter presupposes the holding of a plebiscite before the creation of any autonomous government can be validly effected.⁶⁹

3. Southern Philippine Council for Peace and Development (SPCPD) [Executive Order No. 371; October 2, 1996]

During his term, President Fidel V. Ramos tried to design a political consensus that would have had accommodated the sentiment of the MNLF leadership. In attempting to cover all areas stipulated in the Tripoli Agreement, he established the most promising Southern Philippine Council for Peace and Development (SPCPD) and appointed MNLF Chairman Misuari as the Council's chairman and three other deputies representing the Muslims, the Christians, and the Lumads. In describing the nature and structure of the Council, one author blatantly narrated:

"The SPCPD is not a provisional government because it is not a governing authority. It does not have any law-making power. Neither is it

an autonomous region, a political subdivision of GRP, nor a public corporation. It has no separate judicial personality; hence, it cannot sue nor be sued. It is a transitory administrative arm under the control and supervision of the President of the Philippines; in other words, it is a presidential alter ego. Hence, its powers are just delegated from those of the President of the Philippines. Its functions are as follows: (1) to take charge of the promotion, monitoring, and coordination of the improvement of peace and order in the area; (2) to focus on peace and development efforts, especially in the depressed areas and initiate the implementation of appropriate projects; (3) to support the local government units, when needed; (4) to use other powers needed to implement its mandate as may be delegated by the President; (5) to assist in the holding of elections, referenda, or plebiscite, and peoples' initiative in the area, if deputized by the Commission on Elections upon the recommendation of the President; and (6) to recommend the creation of such offices or instrumentalities necessary for the effective and efficient administration of the affairs of the area.

"However, the Office of the President will have to approve the needed budget. In the performance of the above functions, the SPCPD will coordinate with local officials and request their assistance in the promotion of peace and order or in the

implementation of development projects in the area.”⁷⁰

As clearly stated above, it was not an autonomous government but a mere council. Thus, after serving as chairman of the Council and concurrent regional governor of the ARMM, Misuari had later realized that he was a victim of political trickery. Feeling aggrieved, he insisted that President Ramos had just implemented the Tripoli Agreement in letter, spirit and form but not in substance.⁷¹

4. Autonomous Region in Muslim Mindanao (RA 9054)

Due to the burning persistence of the MNLF for the full realization of the Tripoli peace formula as mandated by the provisions of the GRP-MNLF Final Peace Agreement in 1996, President Gloria M. Arroyo effected the expansion of the ARMM upon the enactment of Republic Act No. 9054.⁷² From the former ARMM which covered only four provinces without a city, this law expanded the territorial coverage of the regional government to include Basilan Province as well as the cities of Marawi and Lamitan as an offshoot of the plebiscite conducted on August 14, 2001. Hence, under the present law, the ARMM is now consisting of five provinces (i.e., Maguindanao, Lanao del Sur, Basilan, Sulu and Tawi-Tawi) and two cities (i.e., Marawi and Lamitan).

As regards to the powers of the Expanded ARMM, the law creating it simply employed the 'policy of exclusion' by enumerating those powers which are outside the competence of the regional government to exercise. These excepted powers under RA 9054 are almost exactly the same with those of the excepted powers under RA 6734. The only difference is the latter law had just added one excepted power bearing on national elections being outside the jurisdiction of the local autonomy.

Furthermore, a cursory reading of the provisions of RA 9054 reveals that the statutory limitations imposed by it are the same with those ones prescribed in the former law. A slight difference exists only with respect to the services delegated. For instance, in addition to the various departments already devolved to the former ARMM, there are also other offices in the national government being devolved to the Expanded ARMM which include, *inter alia*, the following, viz: Commission on Higher Education, Technical Education and Skills Development Authority; Office of Deputy Court Administrator, Shari'ah Public Assistance Office, Regional Economic Zone Authority, Islamic Banks, and Bangko Sentral Regional Bank.

Regarding taxes imposed on natural resources, the percentage distribution between the national government and the expanded autonomous region is

little bit increased in favor of the latter. From sixty (60%) percent under the former law,⁷³ it is now enlarged into seventy (70%) percent under the new law. Besides, the new autonomous government can now impose income taxes, except when levied on banks and other financial institutions. Also, the new ARMM can now impose taxes, fees, or charges for the registration of motor vehicles and for the issuances of all kinds of licenses or permits for the driving thereof, although it is still proscribed from levying excise taxes on petroleum products and strategic minerals, customs duties, wharfage and tonnage dues.

Nevertheless, contrary to the notion of expanding the Muslim autonomy, there are indeed provisions in the Expanded ARMM Law which actually imposed even more strict limitations on the degree of self-rule granted to the Muslims which were not found in the old law. First, under RA 9054, the President may now “suspend the Regional Governor for a period not exceeding six (6) months for willful violation of the Constitution, this Organic Act or any existing law that applies to the autonomous region.” Second, the new autonomy law prescribed three (3) ways of removing the Regional Governor or the Vice Regional Governor, such as: (a) upon three-fourths (3/4) vote of all the Members of the Regional Assembly; (b) order of the President for culpable violation of the Constitution, treason, bribery, graft and corruption, and other high crimes; and, (c) court’s order as a part of its decision of conviction. Remarkably, these last two modes of ousting the Governor were nowhere to

be found in the RA 6734. Finally, the worst and shocking provision is Section 24 of the Article on Economy and Patrimony of RA 9054 where it proffers that:

“The Regional Assembly may enact an aquatic and fisheries code which shall enhance, develop, conserve, and protect marine and aquatic resources, and shall protect the rights of subsistence fisherfolk to the preferential use of communal marine and fishing resources, including seaweeds. This protection shall extend to offshore fishing grounds, up to and including all waters fifteen (15) kilometers from the coastline of the autonomous region but within the territorial waters of the Republic, regardless of depth and the seabed and the subsoil that are included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the autonomous region touch the sea at low tide and a third line parallel to the general coastline.”(underline & bold face supplied)

In referring to the same thing, RA 6734 provided in its Section 18, Article XIII (Economy and Patrimony) that:

“The Regional Assembly shall enact on Aquatic and Fisheries Code which shall enhance, develop, conserve and protect marine and aquatic resources, and shall protect the rights of subsistence fishermen to the preferential use of communal marine and fishing resources, including

seaweeds. This protection shall extend to offshore fishing grounds, up to and including all waters twelve (12) nautical miles from the coastline of the Autonomous Region but within the territorial waters of the Philippines, regardless of depth, the seabed and the subsoil that are included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the Autonomous Region touch the sea at low tide and a third line parallel to the general coastline.” (underline & bold face supplied)

Thus stated above, RA 9054 now restricted the territorial jurisdiction of the autonomous region on its marine and aquatic resources by decreasing its maritime limit from twelve (12) nautical miles to only fifteen (15) kilometers from the coastline. In other words, as unknown to many, these aforecited restrictive provisions of the new autonomy law belied the assumption that it expanded the ARMM. Instead, it even restricted the spirit and substance of the regional autonomy.

The peace journey between the Government of the Philippines (GPH) and Moro Islamic Liberation Front (MILF) had officially started on January 7, 1997 where the MILF Technical Committee proposed a single talking point - “To Solve the Bangsamoro Problem.” After four years and five months of their tit-for-tat negotiation, the parties crafted the Tripoli Agreement on Peace on June 22, 2001 which provided for the parameters on how to effect an everlasting, elusive

peace in Mindanao in this eloquent passage – “The negotiation and peaceful resolution of the conflict must involve consultations with the Bangsamoro people free of any imposition in order to provide chances of success and open new formulas that permanently respond to the aspiration of the Bangsamoro people for freedom.” This aspiration was first implemented in the MOA-AD fiasco, but subsequently barred by the supreme court on the ground of constitutional infirmity. As a modified version of the MOA-AD peace deal, the Framework Agreement on the Bangsamoro envisions to establish a substate arrangement in Mindanao for the Bangsamoro people. As spelled out in said Agreement, it sought to create a Bangsamoro Region with a ‘ministerial form and Cabinet system of government’ which must ‘reflect the Bangsamoro system of life and meet internationally-accepted standard of governance.’ With this nature, observers on the current GPH-MILF peacetalks shared a common view that the full realization of this latest Peace Agreement presupposes a substantially higher in degree of self-determination for the Moro people than that granted in the RA 9054.

However, after the signing of the Annex on Wealth Sharing in July 13, 2013 in Kuala Lumpur, Malaysia peace observers acclaimed that the turn of events says otherwise. They argue that should the MILF not modify its course of journey in accepting even an insulting and callous concession in their peacetalks, they will certainly experience the same failures and

frustrations suffered by the MNLF of Misuari. For example, as agreed upon by the parties, Paragraph 3, Section VII (Natural Resources) thereof postulated that: “With respect to fossil fuels (petroleum, natural gas, and coal) and uranium, the same shall be shared equally between the Central and Bangsamoro governments . . .” This means that the sharing of ‘income derived from exploration, development and utilization of all natural resources within the Bangsamoro’ between the Central and Bangsamoro governments is in fifty-fifty (50:50) ratio.

In the same token, contrary to the claim of the MILF Peace Panel that it is not going to accept any agreement having the same tenor with that of the present ARMM Law, but the above cited provision of the Annex on Wealth Sharing sounds exactly the same with the provision of Paragraph (b), Section 5, Article XII (Economy and Patrimony) of RA 9054 which ordains that: “Fifty percent (50%) of the revenues, taxes, or fees derived from the use and development of the strategic minerals⁷⁴ shall accrue and be remitted to the Regional Government . . . The other fifty percent (50%) shall accrue to the central government or national government.”

In short, regarding the issue of fossil fuels and other potential sources of energy, which is believed to be most abundant in the area of the proposed new political entity than elsewhere in the Philippines, the MILF Peace Panel can (and will) not get anything higher

than that given in the present ARMM law. Therefore, *we cannot* really expect the 'new political entity to replace the ARMM by 2016' to be substantially higher in *degree of fiscal autonomy* than the ARMM set-up. Would this be acceptable to the present and the future generations of the Bangsamoro people?

IV. Concluding Remarks

As noted earlier on, the phases of power sharing may refer to the various stages or shades of self-determination. Because their respective interests relative to the Mindanao conflict are mutually repulsive, the efforts of both the Moro liberation organizations and the succeeding Philippine administrations on the notion of power dispersal from the center are also inversely proportional. On one hand, it is observed that the evolution of the Moros' demand for self-governance followed a descending pattern, that is, it began from the highest demand (i.e., independence) but finally ended to the granting of a lower (if not the lowest) degree of self-determination (i.e., administrative autonomy or reorganization). As presented above, any Moro armed group had initially tried itself to get from the Philippine government the highest possible degree of self-determination. However, its series of peace engagements with the latter have resulted to the final granting of a least form of self-rule. In addition, there were even instances wherein some Moro liberation organizations have not gotten any form of self-rule from the national

government, as in the case of the MIM, MNLF-Reformist, BLMO, and others. However, to the credit of the Moro rebels, at least, they have been consistently showing to the whole world that their demand is not within the bounds of extremism nor within the mantra of fundamentalism, but it is fact within the ambit of an internationally-accepted standard of social life. In fact, if we trace back the different phases of power sharing previously enumerated, one can say that any and all forms of politico-administrative structures (i.e., RAGs, ARMM, SPCPD, Expanded ARMM, and Bangsamoro Government envisioned in the FAB) granted to, and freely agreed upon by, the Moro people are still within the initial stages of self-rule.

On the other hand, the solution offered by the government to the Mindanao conflict followed an ascending track, that is, from the least (i.e., administrative reorganization) to an increasingly higher stage of power sharing (i.e., genuine self-rule envisioned in the FAB). Facts presented above show that despite the earnest desire of some sectors of the Philippine society to accelerate the degree of self-rule granted to the Muslims, different Philippine authorities have passed on for decades their common conservative policy of giving to the Moros the lowest possible phase of power diffusion. As observed, whenever the Moros' demand is being addressed, the government had really exerted efforts, using all legal and extra-legal forms of manipulations, to ensure that what would be finally given to them is

the lowest possible stage of self-governance as dictated upon by the country's national interest of safeguarding the constitutional mandate against the dismemberment of the Republic.

While it is true that there were also attempts to accommodate even the most ambitious political aspiration of the Moro people, any effort on the part of the national leadership to grant a substantially higher degree of self-rule than that allowed by the constitution has always been hampered by the super-imposing injunction of the said law to allow only an administrative autonomy, like the present ARMM. This is not surprising because this political set-up is "affirmed as the constitutionally-prescribed form or degree of internal self-determination for the Bangsamoro people. Consequently, the only way for it to go higher in degree of self-determination is through constitutional change."⁷⁵

In effect, the supreme law has been regarded by peace observers in Mindanao as the stumbling block to any move intended to 'think out of the box' thereby opening "new formulas that permanently respond to the aspiration of the Bangsamoro people for freedom" in order to provide chances of success to any initiative intended to finally address this problem. This is the very reason why radical Moro groups had never recognized the constitution as the frame of reference in their peacetalks with the government. For them, this is the ultimate source of all their insecurities and

sufferings. As such, unless the Philippine government could successfully initiate a surgical amendment to the constitution, that 'light seen at the end of the tunnel' is still a mile-long road to travel.

In this respect, peace advocates ponder - given the fact that there had already been hundreds of thousands of lives lost, millions of property destroyed, thousands of women got widowed and children turned orphaned as a result of the conflict in the South - why is the Philippine government still imprisoned (or poisoned) by the twin-principles of constitutionalism on national sovereignty and territorial integrity? Is it not more rational, civilized and practical if we would transform such principles into human sovereignty and people's integrity? After all, the constitution is made by the Filipino people as the ultimate repository of all their ideals and aspirations. As a matter of fact, its very preamble lauded that this is aimed to "embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity the blessings of independence and democracy under the rule of law."

In other words, the constitution is made by the sovereign Filipino people of this country to serve them, not otherwise. As former Supreme Court Justice, Isagani Cruz, passionately whispered that an effective constitution "must grow with the society it seeks to restructure and march apace with the progress of the race, drawing from the vicissitudes of history the dynamism

and vitality that will keep it, far from becoming a petrified rule, a pulsing, living law attuned to the heartbeat of the nation.”⁷⁶

Since it is meant to promote our common good, reason dictates that, in order for us to avoid becoming blind servants to the constitution, whenever our general welfare calls for its amendment (or even its overhauling), we must bravely face altogether such a challenge as brave as the time when we had first faced the same challenge in writing this very supreme law. Otherwise, if the incumbent administration in the Philippines would still insist to preserve this piece of paper at the expense of untold sufferings and miseries of the people in Mindanao, then this is an alarming reality that the present generation of Filipinos has not yet learned nor escaped from the historical tyranny of shedding blood and tears between and among its own people.

Thus, as our plea for posterity, let us all be reminded by the most significant fact relative to our elusive search for peace in Mindanao – although many Moro armed groups have settled to lesser forms of self-governance, some still have the constant urge for the highest degree of self-rule from the Philippine government. As experienced and observed, whenever one Moro rebel group opted for a political formula short of independence, another armed group emerges fighting for the same cause.

How could this incessant momentum for freedom by the Moro people be effectively addressed?

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End Notes

¹Used interchangeably as National, Federal, Central or Mother government.

²Used interchangeably as local, regional, state or associate unit or organ.

³Dennis A. Rondinelli, "Administrative Decentralization and Area Development Planning in East Africa: Implications for United States Aid Policy," Occasional Paper, Regional Planning and Area Development Project, University of Wisconsin, as cited in United Nations Centre for Regional Development, Synthesis Report Series, No. 3, 1983, p. 11.

⁴Cader P. Indar and Margarita delos Reyes Cojunagco, *The Organic Act for the Autonomous Region In Muslim Mindanao, Explained: An Instrument for Peace and Development*. Caloocan City: CESTY Trading and Publishing, 2011, p. 52.

⁵Pimentel Jr. vs. Aguirre, G.R. No. 132988, July 19, 2000.

⁶Rondinelli, 1983, *Supra*, p. 13.

⁷Section 3, Republic Act No. 7160, or otherwise known as "The Local Government Code of 1991."

⁸United Nations Centre for Regional Development, Synthesis Report Series, No. 3, 1983, pp. 11-12.

⁹Cader P. Indar and Margarita delos Reyes Cojunagco, 2011,

Supra., p. 1.

¹⁰Article X, Section 15 of the 1987 Philippine Constitution provides: “There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.”

¹¹See Article X, Section 20 of the 1987 Philippine Constitution.

¹²Cader P. Indar and Margarita delos Reyes Cojunagco, 2011, Supra., p. 1.

¹³Unitary government is “one in which the control of national and local affairs is exercised by the central or national government.” [Hector S. De Leon, Textbook on the Philippine Constitution. Quezon City: Rex Printing Company, Inc., 2011, p.11.]

¹⁴In the RA 9054, its preamble provides: “The people of the Autonomous Region in Muslim Mindanao . . . do ordain and promulgate this Organic Act through the Congress of the Philippines.”

¹⁵For the FAB, it stipulates in its Paragraph 7, Section VII that: “The draft Bangsamoro Basic Law submitted by the Transition Commission shall be certified as an urgent bill by

the President.” Obviously, this provision of the Agreement affirms that ultimately the Philippine Congress has the final say on what should be the law in this country. It is needless to say that the proposed Bangsamoro Basic Law to be drafted by the TC will not (and cannot) be implemented in toto as it is still subject to the scrutiny by the Congress.

¹⁶Primer on Local Governments in Federal System, published by Local Government Development Foundation (LOGODEF), Manila, Philippines, and The Konrad Adenauer Stiftung (KAS), Makati, Philippines, 2005, p. 5.

¹⁷LET US BUILD THE STRONG FEDERAL STRUCTURE UNDER THE PARLIAMENTARY SYSTEM, published by the Citizens’ Movement for Federal Philippines (CMFP). Marikina City: Kalayaan College, 2007, p. 12.

¹⁸Ibid.

¹⁹Ibid., p. 18.

²⁰Ibid., p. 19.

²¹Primer on Local Governments in Federal System, 2005, Supra., p. 4.

²²http://ph.search.yahoo.com/search;_ylt=A0oGkmgV3e1RiQcA5GCzRwx.?p=Federalism%20in%20Pakistan%20by%20Muntzra&fr2=sb-top&fr=yfp-t-711&rd=r1, Muntzra Nazir, “The Problems and Issues of Federalism in Pakistan,”

Pakistan Vision Journal, Vol.9, No.1., p. 112.

²³Ibid., p. 113.

²⁴http://en.wikipedia.org/wiki/Asymmetric_federalism.

²⁵<http://en.wikipedia.org/wiki/Federacy#mw-navigation>.

²⁶<http://sccie.ucsc.edu/>., M. Govinda Rao and Nirvikar Singh, Asymmetric Federalism in India, p. 10.

²⁷James M. Miraflor, Policy Brief, "Bangsamoro, the Devolution Failure, and India-Style Federalism: A Case for Asymmetric Autonomy and Strategic Reapportionment," Cotabato City: Institute for Autonomy and Governance, 2010, p. 6. [See also Rao and Singh, Supra].

²⁸Frequently Asked Questions (FAQ): MILF PEACE PANEL DIALOGUE SERIES. Published by the Mindanao Peoples Caucus, 2011, pp. 4-5.

²⁹http://en.wikipedia.org/wiki/People%27s_Republic_of_China.

³⁰Alvario O. Senturias, Jr. "A United Nations-Managed Referendum on Political Options in the Bangsamoro Areas of Mindanao, Palawan and the Entire Island Provinces of Basilan, Sulu and Tawi-Tawi: Platform of Hope for Lasting Peace in Mindanao," REFERENDUM ON POLITICAL OPTIONS FOR THE BANGSAMORO: Study Papers on the

Legal and Historical Basis. Cotabato City: Mindanao Peoples' Peace Movement, 2010, p. 16.

³¹Ibid.

³²The Province of North Cotabato vs. The Government of the Republic of the Philippines Peace Panel on the Ancestral Domain, G.R. No. 183591, October 14, 2008.

³³William W. Bishop. International Law, Cases and Materials, 1954, as cited in Isgani A Cruz, International Law Reviewer. Quezon City: Central LawBook Publishing Co., Inc., 1996, p.13.

³⁴http://en.wikipedia.org/wiki/Real_union#mw-navigation.

³⁵Bishop, Supra.

³⁶http://en.wikipedia.org/wiki/Personal_union#mw-navigation.

³⁷Zainal D. Kulidtod, "Framework Agreement on the Bangsamoro: Gains and Challenges," *Autonomy and Peace Review* (Special Publication 2013). Cotabato City: Notre Dame University - Institute for Autonomy and Governance, pp. 117-118.

³⁸Mindanao problem is used interchangeably in this paper as Moro problem, Moro question, Mindanao conflict or Mindanao crisis.

³⁹Najeeb M. Saleeby, "THE MORO PROBLEM: An Academic Discussion of the History and Solution of the Problem of the Government of the Moros of the Philippine Islands," *Dansalan Quarterly*, Vol. V, No. 1, October 1983, p. 23.

⁴⁰Salah Jubair, *THE LONG ROAD TO PEACE: Inside the GRP-MILF Peace Process*. Cotabato City: Institute of Bangsamoro Studies, 2007, pp. 11.

⁴¹Kulidtod, *Supra.*, p. 140.

⁴²Salah Jubair. *BANGSAMORO: A Nation Under Endless Tyranny*. Kuala Lumpur: IQ Marin SDN BHD, 1999, pp. 293-294.

⁴³*Ibid.*, p. 91.

⁴⁴*Ibid.*

⁴⁵*Ibid.*, p. 110.

⁴⁶This was renamed in its Constitution and By-Laws as 'Muslim Independence Movement of the Philippines'.

⁴⁷This was the so-called Jabidah Massacre in Corregidor Island, Bataan on March 18, 1968.

⁴⁸Jubair, *Supra.*, p. 306.

⁴⁹<http://bangsamoromnlf.blogspot.com/search/label/About%20the%20MNLF>, "About the Moro National

Liberation Front (MNLF)" – Accessed on July 14, 2013.

⁵⁰<http://declassifiedrommelbanlaoi.blogspot.com/>. Rommel C. Banlaoi, "BANGSAMOROISM AND THE NEXUS OF IDENTITY POLITICS AND VIOLENT EXTREMISM IN THE SOUTHERN PHILIPPINES. Presented at the International Workshop on "The Impact of Identity Politics on Violent Extremism" organized by the Centre of Excellence for National Security (CENS) of the Nanyang Technological University and the Global Futures Forum (GFF) at Marina Mandarin Hotel, Singapore October 23-25, 2011.

⁵¹Salah Jubair, 2007, *Supra.*, pp. 13-14.

⁵²Salamat Hashim, THE BANGSAMORO MUJAHID: His Objectives and Responsibilities: Mindanao: Bangsamoro Publications, 1985, pp. 8-9.

⁵³Bobby M. Tuazon (ed.) THE MORO READER: History and Contemporary Struggles of the Bangsamoro People. Quezon City: Center for People Empowerment in Governance, 2008, p. 240.

⁵⁴'Bangsamoro Juridical Entity'.

⁵⁵GRP-MILF PEACE PROCESS: Compilation of Signed Agreements and Other Related Documents. Cotabato City: Commission on Higher Education – ARMM, 2010, p. 199.

⁵⁶Frequently Asked Questions, 2011, *Supra*, pp. 3-4.

⁵⁷Philippine Daily Inquirer, p. A14, First column, October 11, 2012. See also p. A12 thereof when it says: "The term of the Agreement can be made without changing the present Constitution. Article X of the 1987 Philippine Constitution on the creation of Autonomous Regions shall apply."

⁵⁸Soliman M. Santos, Jr., "Legal Notes on the Right of Self-Determination and on Secession: The Real and Realistic Score," REFERENDUM ON POLITICAL OPTIONS FOR THE BANGSAMORO: Study Papers on the Legal and Historical Basis. Cotabato City: Mindanao Peoples' Peace Movement, 2010, p. 39.

⁵⁹Borrowing the language of the MNLF, this 'Bangsamoroism' triggered the formation of the Bangsamoro liberation movement which first came under the common banner of the MIM. See <http://declassifiedrommelbanlaoi.blogspot.com/>

⁶⁰In the Second Paragraph of the Tripoli Agreement, areas of the Autonomy for the Muslims in Southern Philippines comprised the following: [A] Provinces of (1) Basilan, (2) Sulu, (3) Tawi-Tawi, (4) Zamboanga del Sur, (5) Zamboanga del Norter, (6) North Cotabato, (7) South Cotabato, (8) Maguindanao, (9) Sultan Kudarat, (10) Lanao del Norte, (11) Lanao del Sur, (12) Davao del Sur, and (13) Palawan; and, [B] Cities of (1) Dipolog, (2) Dapitan, (3) Zamboanga, (4) Pagadian, (5) Iligan, (6) Marawi, (7) Cotabato, (8) General Santos and (9) Puerto Princesa.

⁶¹It may be noticed that, although the 1976 Tripoli Agreement

contemplated only one autonomous region but, Marcos finally implemented two autonomous regions (i.e., Regions IV and XII) for reasons only known to him.

⁶²See Section 3, Article XI, 1973 Philippine Constitution.

⁶³Limbona vs. Mangelin, G.R. No. 80391, *Supra*.

⁶⁴Disomangcop vs. The Secretary of the Department of Public Works and Highways, G.R. No. 149848, November 25, 2004; 444 SCRA 203.

⁶⁵*Ibid.*

⁶⁶See III RECORD 235, 12 August 1986.

⁶⁷Enacted on August 1, 1989, it was otherwise known as 'An Act Providing for an Act for the Autonomous Region in Mindanao.'

⁶⁸Section 5, Article X [Fiscal Autonomy] of RA 6734.

⁶⁹The second sub-paragraph of Section 18, Article X of the Constitution provides: "The creation of the autonomous shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities and geographic areas voting favorably in such plebiscite shall be included in the autonomous region."

⁷⁰<http://park.org/Philippines/government/spcpd.htm>.

Accessed on July 30, 2013.

⁷¹In registering his honest yet militant view on the effect of Misuari's acceptance of the SPCPD Chairmanship, Atty. Marie J. Yuviengco has this to say: "By announcing his candidacy for the ARMM under a Lakas-MNLF alliance, Misuari admits that he has 'totally rejected the armed struggle.' The MNLF has, therefore, surrendered its principles, abandoned its struggle and embraced the line of the ruling elite. The MNLF is no longer a 'liberation force'. The MNLF is now a political party whose only chance for survival is to embrace wholeheartedly the oppressive and repressive system of governance and for Misuari to engage in elitist politics." [<http://www.google.com.ph/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CDIQFjAB&url=http%3A%2F%2Fwww.arkibongbayan.org%2F2011%2F2011-01Jan14-Peace talks%2Fspcpd.rtf&ei=pQP3UYTPOMStrAfeiYDICw&usg=AFQjCNELQdIqu30VuIeCeKlpOPvrpdfKGw&sig2=dKh-g71lXB1L9 UHivHKKA&bvm=bv.49967636,d.bmk>. Accessed on July 30, 2013.

⁷²Popularly called as the Expanded-ARMM law which was finally passed by both Houses of Congress on March 31, 2001, it is otherwise known as "An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao, Amending for the Purpose Republic Act No. 6734, Entitled 'An Act Providing for the Autonomous Region in Muslim Mindanao,' As Amended."

⁷³See Article IX, Section 9 of RA 9054.

⁷⁴Paragraph (a) of same Section defined the term strategic minerals to include uranium, petroleum, and other fossil fuels, mineral oils, all sources of potential energy.

⁷⁵Santos, Jr., 2010, *Supra*.

⁷⁶Isagani A. Cruz, *Philippine Political Law*. Quezon City: Central Law Book Publishing Co. Inc., 2002, p. 13.

**THE ANNEX ON
WEALTH SHARING: CHARTING
FINANCIAL VIABILITY OF THE
FUTURE BANGSAMORO**

THE ANNEX ON WEALTH SHARING: CHARTING FINANCIAL VIABILITY OF THE FUTURE BANGSAMORO

by the IAG Staff

The signing of the Annex on Wealth Sharing in Kuala Lumpur on July 13, 2013 is a landmark in the delicate peace negotiations between the Philippine government (GPH) and the Moro Islamic Liberation Front (MILF) worth noting.

One of four annexes to the Framework Agreement on the Bangsamoro signed by GPH and MILF October 15th 2012, the Annex on Wealth Sharing is the second annex to have found consensus. The Annex on Transitional Arrangement and Modalities was signed February 27th this year.

This recent development is a great leap toward the final and complete peace agreement. It reflects the perseverance, patience and tenacity of both peace panels in their continuing search for a common ground in the peace talks aimed at ushering sustainable peace in the Philippines' troubled south.

The Institute for Autonomy & Governance (IAG) welcomed this milestone in a roundtable discussion it convened on July 17th, 2013 in Cotabato City to shed some perspectives on the Annex on Wealth Sharing as a document and what possible future it can spell out for the Bangsamoro.

Prof. Abhoud Syed Lingga, Atty. Naguib Sinarimbo, and Johaira Wahab of the Bangsamoro Transition Commission (TC) sat as resource persons. They were joined by Fr. Eliseo Mercado, senior policy adviser at IAG, and Atty. Benny Bacani, IAG executive director, who moderated the roundtable.

Opening the discussion, Fr. Eliseo Mercado hailed the optimism sparked by the progress in the peace talks as an invitation to “develop big minds and big hearts” as the fruition of a final peace agreement that will serve as blueprint of peace and development not only for Mindanao but for the whole country is eagerly anticipated. He said a “big vision” is necessary to see the entire picture of the peace process including its complexities, challenges and uncertainties.

In their respective presentations, Prof. Abhoud Syed Lingga and Johaira Wahab walked the participants through the provisions of the Annex on Wealth Sharing. Prof. Lingga underscored the importance of the Annex on Wealth Sharing saying it is needed to fuel Bangsamoro’s political economy by generating adequate resources to sustain its operations.

Under the Annex on Wealth Sharing, the Bangsamoro shall have the following sources of revenues: **taxation; fees and charges; fund transfers from central government; incomes derived from exploration, development and utilization of all natural resources**

within the Bangsamoro; government incomes, grants, benefits from conventions; grants and donations; and, loans and ODA.

The negotiations in Kuala Lumpur have favored full devolution of four new taxes to the future Bangsamoro in addition to taxes and sources of revenues already provided in Republic Act 9054. These are **capital gains tax, donor tax, estate tax, and documentary stamp tax**. A full devolution means 100 percent of collection from these taxes will go to the Bangsamoro.

As for national taxes collected by Central Government within the Bangsamoro, a 75-25 sharing arrangement will apply in favor of the Bangsamoro. The Annex is silent on the sharing between the Bangsamoro and its constituent local government units (LGUs).

Meanwhile, 100 percent collection of regional taxes, fees and charges imposed in the exercise of the Bangsamoro of the powers devolved to it in the power sharing annex (negotiations ongoing) will go directly to its coffers.

The Annex on Wealth Sharing also speaks of fund transfers from the National Government to the Bangsamoro in two means: **block grants and special development fund**. The block grant which will cover expenditures of the Bangsamoro Government will be automatically appropriated and regularly released to the

Bangsamoro on an annual basis. Meanwhile, the special development fund will be released “for rehabilitation and development purposes upon the ratification of the Bangsamoro Basic Law.”

The Bangsamoro shall also have its share of government income derived from the exploration, utilization, and development of natural resources located within its territory. The Annex speaks of the following sharing arrangements: **100 percent in favor of the Bangsamoro and its LGUs for non-metallic minerals; 75 percent in favor of the Bangsamoro and its LGUs for metallic minerals; and, 50-50 or equal sharing between the Central Government and the Bangsamoro and its LGUs for fossils fuels and uranium.** With regards to income derived from natural resources, again, the Annex is silent on the sharing between the Bangsamoro and its constituent LGUs.

Atty. Bacani emphasized that to understand the Annex on Wealth Sharing one must have a good grasp of the status quo that is the ARMM.

READ ALSO: Appreciating ARMM Baselines: Moving Forward in the Bangsamoro, page 11.

Will the Annex on Wealth Sharing be able to chart the departure from the status quo to the envisioned Bangsamoro in terms of financial viability? IAG came up with a raw matrix putting the language of RA 9054 vis-

à-vis that of the Annex on Wealth Sharing on certain key points. Take a look:

	Republic Act 9054	Annex on Wealth Sharing
Guiding Principles	<p>The Regional Government shall have the power to create its own sources of revenues and to levy taxes, fees, and charges, subject to the provisions of the Constitution and this Organic Act.</p> <p>Both parties recognize the Bangsamoro aspiration for the exercise of additional fiscal powers in order to reach full fiscal autonomy and shall cooperate towards achieving this goal through necessary processes and modalities.</p>	<p>The parties commit to jointly pursue measures to increase the Bangsamoro's revenue generation and wealth creation capacity. The Central Government shall devolve powers to create sources of revenues and to levy taxes, fees and charges for the Bangsamoro Government to attain the highest form of fiscal autonomy. xxx</p> <p>All taxing powers already devolved to the ARMM by R.A. 9054 and other legislations shall be exercised by the Bangsamoro.</p>
Fiscal Autonomy	<p>The Regional Government shall enjoy fiscal autonomy in generating and budgeting its own sources of revenue,</p>	

	<p>its share of the internal revenue taxes and block grants and subsidies remitted to it by the central government or national government or any donor.</p>	<p>The central Government shall provide a block grant to the Bangsamoro. The Bangsamoro block grant shall be based on a formula provided in the Bangsamoro Basic Law which in no case shall be less than the last budget received by the ARMM immediately before the establishment of the Bangsamoro Transition Authority. The Basic Law shall also provide a system of automatic appropriation for and regular release of the block grant.</p> <p>The formula shall be subject to review by the Central Government and the Bangsamoro Government after ten years, on the basis of need and actual revenues generated.</p> <p>The Central Government shall also provide for a Special Development Fund to the Bangsamoro for rehabilitation and development purposes upon the ratification of the Bangsamoro Basic Law.</p>
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		<p>The amount of the Fund that shall be proposed by the Transition Commission in the drafting of the Bangsamoro Basic Law shall be recommended by a joint needs assessment team to be created by the panels for this purpose.</p> <p>The Bangsamoro Government's annual block grant shall undergo internal budget processes and shall be allocated by the Bangsamoro Government in an appropriations act.</p>
Transparency	<p>The utilization of its share of the internal revenue taxes and block grants or subsidies from the central government or national government shall be subject to a semi-annual and annual audits by the Commission on Audit and to the rules and regulations of the Department of Budget and Management. All accountable officials of the Regional Government shall, upon demand, furnish</p>	<p>The Bangsamoro auditing body shall have auditing responsibility over public funds utilized by the Bangsamoro. The Bangsamoro Basic Law shall provide for a clear delineation of the Bangsamoro auditing body. This should be without prejudice to the power, authority and duty of the national Commission on Audit to examine, audit and settle all accounts pertaining to the revenues and the</p>

	<p>Commission on Audit all documents, papers, and effects necessary for the completion of the audit. Failure to do so shall empower the President or the Secretary of Finance to reduce, suspend, or cancel the release of funds intended for the autonomous region to the extent of the amounts that cannot be audited for reasons attributable to the officials of the autonomous region or are unaccounted for after audit. xxx</p>	<p>use of funds and property owned and held in trust by any government instrumentality including GOCCs.</p> <p>The Bangsamoro shall ensure transparency mechanisms consistent with open government practices.</p>
Principles on Taxation	<p>In enacting revenue-raising measures, the Regional Assembly shall observe the principles of uniformity and equity in taxation and shall not impose confiscatory taxes or fees of any kind. Until a regional tax code shall have been enacted by it, the Regional Assembly may not revoke or amend, directly or indirectly, any city or municipal ordinances imposing taxes or fees on purely local businesses.</p>	<p>In enacting revenue-raising measures, the Bangsamoro shall observe the principles of uniformity and equity in taxation and shall not impose confiscatory taxes or fees of any kind.</p>

	Prior to the revocation or amendment of such city or municipal ordinances, the Regional Assembly shall consult with the city or municipal government concerned.	
Extent of Taxation	Unless otherwise provided herein, the taxing power of the regional government and of the provinces, cities, municipalities, and barangay located therein shall not extend to the following: (a) Income tax, except when levied on banks and other financial institutions; (b) Documentary stamps tax; (c) Taxes on estate, inheritance, gifts, legacies, and other acquisitions mortis causa, except as otherwise provided by law; xxx	Where all taxable elements are within the Bangsamoro, capital gains tax, documentary stamp tax, donors and estate tax, shall be levied by the Bangsamoro and not by the national Bureau of Internal Revenue (BIR), and the same shall be provided in the Basic Law. Where all taxable elements are not situated entirely within the Bangsamoro, the intergovernmental fiscal policy board shall address problems relations to implementation. Copies of the returns of on the said taxable elements shall be provided to the national BIR for purposes of implementing number 3 below.

		<p>(3) Revenues from the additional taxes beyond those already devolved to the ARMM and the Bangsamoro share in revenues derived from exploration, development and utilization of natural resources will be deducted from the amount comprising the annual block grant. This is without prejudice to the just share of the Bangsamoro's constituent local government units in the national taxes.</p> <p>These deductions shall be suspended for four years from the full operation of the Bangsamoro.</p>
Tax Adminis-tration	<p>Corporations, partnerships, or firms directly engaged in business in the autonomous region shall pay their corresponding taxes, fees, and charges in the province or city, where the corporation, partnership, or firm is doing business.</p> <p>Corporations,</p>	<p>The Bangsamoro shall have the power to establish offices for the purpose of assessing and collecting the taxes mentioned herein.</p> <p>The Central Government shall extend assistance to the Bangsamoro Government in the matter of tax</p>

	<p>partnerships, or firms whose central, main, or head offices are located outside the autonomous region but which are doing business within its territorial jurisdiction, by farming, developing, or utilizing the land, aquatic, or natural resources therein, shall pay the income taxes corresponding to the income realized from their business operations in the autonomous region to the city, or municipality where their branch offices or business operations or activities are located.</p>	<p>administration and fiscal management. This assistance shall include capacity building and training programs.</p>
Sources of Revenue and Sharing Arrangements	<p>The sources of revenues of the Regional Government shall include, but are not limited to, the following:</p> <p>(a) Taxes, except income taxes, imposed by the Regional Government;</p> <p>(b) Fees and charges imposed by the Regional Government;</p> <p>(c) Taxes, fees or charges for the registration of motor</p>	<p>Fees and Charges</p> <p>The Bangsamoro will have the power to levy taxes and charges pursuant to the powers and functions that it shall exercise in accordance with the list of concurrent and exclusive powers in the Annex on Power Sharing, including powers already granted under Republic Act no. 9054 and other legislations.</p>

	<p>vehicles and for the issuances of all kinds of licenses or permits for the driving thereof, except tricycles which shall be registered with the city or municipality within whose territorial boundaries they are operated;</p> <p>(d) Shares and revenue generated from the operations of public utilities within the autonomous region;</p> <p>(e) Appropriations, shares in the internal revenue taxes, block grants, and other budgetary allocations coming from the central government or national government, and;</p> <p>(f) Block grants derived from economic agreements or conventions entered into or authorized by the Regional Assembly, donations, endowments, foreign assistance, and other forms of aid, subject to the pertinent provisions of the Constitution.</p>	
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	<p><i>Sharing of Internal Revenue, Natural Resources</i></p> <p>Taxes, Fees and Charges</p> <p>The collections of a province or city from national internal revenue taxes, fees and charges, and taxes imposed on natural resources, shall be distributed as follows:</p> <p>(a) Thirty-five percent (35%) to the province or city;</p> <p>(b) Thirty-five percent (35%) to the regional government; and</p> <p>(c) Thirty percent (30%) to the central government or national government.</p> <p>The share of the province shall be apportioned as follows: forty-five percent (45%) to the province, thirty-five percent (35%) to the municipality and twenty percent (20%) to the barangay.</p> <p>The share of the city shall be distributed as follows: fifty percent (50%) to the city and</p>	<p>Central government taxes, fees and charges collected in the Bangsamoro, other than tariff and customs duties, shall be shared as follows:</p> <p>a. twenty five (25%) percent to the Central Government</p> <p>b. Seventy five (75) percent to the Bangsamoro, including the shares of the local government.</p> <p>The Bangsamoro Basic Law may provide that the twenty-five percent (25) due to the Central Government will be remitted to the Bangsamoro for a limited period of time.</p>
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	<p>fifty percent (50%) to the barangay concerned.</p> <p>xxx</p>	
	<p><i>Collection and Sharing of Internal Revenue Taxes.</i> – The share of the central government or national government of all current year collections of internal revenue taxes, within the area of autonomy shall, for a period of five (5) years be allotted for the Regional Government in the Annual Appropriations Act.</p> <p><i>Sharing Between Central Government or National Government and Regional Government in Strategic Minerals Revenues, Taxes, or Fees</i></p> <p>Fifty percent (50%) of the revenues, taxes, or fees derived from the use and development of the strategic minerals shall accrue and be remitted to the Regional Government within thirty (30) days from the end of every. The other fifty percent (50%) shall accrue</p>	<p><i>Natural Resources</i></p> <p>Government income derived from the exploration, development and utilization of all natural resources within the Bangsamoro shall be allocated as follows:</p> <ol style="list-style-type: none"> 1. With respect to non-metallic minerals (sand, gravel, and quarry resources) within the Bangsamoro, such revenues shall pertain to the Bangsamoro and its local government units. 2. With respect to metallic minerals within the Bangsamoro, seventy-five percent (75%) of such revenues shall pertain to the Bangsamoro. 3. With respect to fossil fuels (petroleum, natural gas, and coal) and uranium, the same shall be shared equally between the Central and Bangsamoro government.

	<p>to the central government or national government.</p> <p><i>Sharing Between Regional Government and Local Government Units in Strategic Minerals Revenues, Taxes, or Fees</i></p> <p>The share of the Regional Government mentioned above is hereby apportioned as follows: thirty percent (30%) to the Regional Government; twenty percent (20%) to all the provinces; fifteen percent (15%) to all the cities; twenty percent (20%) to all the municipalities; and fifteen percent (15%) to all the barangays. If there are no cities in the autonomous region as of the date the sharing above mentioned is done, the share of the cities shall be divided equally by all the provinces, municipalities, and barangay in the autonomous region.</p>	<p>Both parties shall endeavor to provide for a review mechanism in the Basic Law with regard to this sharing arrangement.</p> <p>The shares of the Bangsamoro above shall include those for its constituent local government units, as shall be provided by law.</p> <p>The Bangsamoro Sustainable Development Body referred to in the Framework Agreement (Part IV, Section 8) shall get funding support from the proceeds of the revenues collected from these sources.</p>
Bonds and Securities	The Regional Government may issue treasury bills, bonds, promissory	The Bangsamoro is also authorized to issue bonds, debentures, securities, collaterals,

	<p>notes, and other debt papers or documents pursuant to law enacted by the Regional Assembly.</p>	<p>notes and obligations to finance self-liquidating, income producing development or livelihood projects pursuant to priorities established in its approved development plan.</p> <p>The Bangsamoro shall appropriate in its annual budget such amounts as are sufficient to pay their loans and other indebtedness incurred. The Bangsamoro may also redeem or retire bonds, debentures, notes and other obligations.</p> <p>The Bangsamoro may borrow from government financial institutions when it needs to finance its development needs.</p>
Economic and Development Planning	<p>The regional government may formulate its own economic and financial programs, subject to the provisions of the Constitution.</p>	<p>The Bangsamoro shall formulate its development plans, consistent with national development goals but recognizing their unique needs and aspirations. Towards this end, the Bangsamoro may participate in national</p>

		<p>development planning. The plan shall also consider the revenue generation efforts needed for the post-conflict rehabilitation, reconstruction and development in the region.</p>
Economic & Development Policy Board	<p>There is hereby created a Regional Economic and Development Planning Board. xxx</p> <p>The Board shall serve as the planning, monitoring, and coordinating agency for all development plans, projects, and programs intended for the autonomous region. It shall evaluate and recommend for approval by the Regional Assembly, the annual work programs and comprehensive development plans of the autonomous region.</p> <p>The Board shall formulate a master plan for a systematic, progressive, and total</p>	<p>The intergovernmental fiscal policy board shall be composed of the heads and/or representatives of the appropriate ministries and offices in the Bangsamoro Government. The Central Government shall likewise be represented in the Board until full fiscal autonomy is achieved. The board may create a secretariat and sub-committees as it may deem necessary.</p> <p>To address revenue imbalances and fluctuations in regional financial needs and revenue-raising capacity of the Bangsamoro, the Board shall undertake periodic review of the taxing powers, tax base and rates of the Bangsamoro</p>

	<p>development of the region.</p> <p>The master plan shall take into account the development plans of the province, city, municipality, and barangay concerned as mandated by Republic Act No. 7160, the Local Government Code 1991.</p>	<p>government, wealth sharing arrangements, sources of revenues, vis a vis the development needs of the Bangsamoro. An annual report shall be submitted by the body to the Central Government and the Bangsamoro Government.</p>
Economic Agreements	<p>Subject to the provisions of the Constitution, the Regional Government shall evolve a system of economic agreements and trade compacts to generate block grants for regional investments and improvements of regional economic structures which shall be authorized by law enacted by the Regional Assembly. Pursuant to specific recommendations of the Regional Economic and Development Planning Board, the Regional Government may assist local government units in their requirements for counterpart funds for foreign-assisted projects. xxx</p>	<p>The Bangsamoro may receive grants derived from economic agreements entered into or authorized by the Bangsamoro Assembly (donations, endowments, and other forms of aid), subject to the reserved powers of the Central Government over foreign affairs.</p> <p>The Bangsamoro shall also be entitled to benefits resulting from conventions to which the Central Government is a party.</p>

Domestic and Foreign Loans	<p>The Regional Governor may be authorized by the Regional Assembly to contract foreign or domestic loans in accordance with the provisions of the Constitution. The loans so contracted may take effect upon approval by a majority of all the members of the Regional Assembly.</p> <p>In all cases, the Regional Government shall remit to the local government units their respective shares within sixty (60) days from the end of each quarter of the current taxable year. The provinces, cities, municipalities, and barangays within the area of autonomy shall continue to receive their respective shares in the Internal Revenue Allotment (IRA), as provided for in Section 284 of Republic Act No. 7160, the Local Government Code of 1991.</p>	<p>The Bangsamoro shall have the authority to contract loans, credits and other forms of indebtedness with any government or private bank and other lending institutions, except those requiring sovereign guaranty, which require Central Government approval. The Central Government shall assist the Bangsamoro in complying with the requirements for a speedy issuance of the sovereign guaranty, to finance local infrastructure and other socio-economic development projects in accordance with Bangsamoro-approved development plan.</p> <p>Overseas Development Assistance (ODA) shall be availed of by the Bangsamoro to achieve inclusive growth and poverty reduction, particularly through the implementation of priority development projects for the attainment of the Millennium Development Goals.</p>
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	<p>The five-year (5) period herein abovementioned may be extended upon mutual agreement of the central government or national government and the Regional Government.</p>	<p>In pursuit of its development goals, the Bangsamoro may enter into build-operate-transfer type arrangements under public-private partnerships for the financing, construction, operation and maintenance of any financially viable infrastructure facilities. These arrangements may likewise be supported by foreign or domestic loans, in accordance with relevant laws.</p>
<p>GOCCs and Economic Zones</p>	<p>The regional government shall encourage, promote, and support the establishment of economic zones, industrial centers, ports in strategic areas, and growth centers to attract local and foreign investments and business enterprises.</p> <p>The regional government may establish a Regional Economic Zone Authority in the autonomous region.</p>	<p>Government income derived from the operations of Bangsamoro government-owned and controlled corporations, financial institutions, economic zones and freeports operating therein, shall go to the Bangsamoro government.</p> <p>The Bangsamoro shall have authority and control over existing government-owned and controlled corporations and financial institutions</p>

	<p>The Regional Economic Zone Authority shall have similar powers as the Philippine Economic Zone Authority and consistent with the Special Economic Zone Act of 1995. The Regional Assembly may provide such additional powers and functions to the Regional Economic Zone Authority as may be necessary to meet the special circumstances of the autonomous region. Once the Regional Economic Zone Authority is created by a Regional Assembly legislation, the Philippine Export Zone Authority shall no longer authorize any other economic zone within the autonomous region. Any corporation, firm, or entity established within the autonomous region, by authority of the Philippine Export Zone Authority, shall be placed under the jurisdiction of the Regional Economic</p> <p>operating exclusively in the Bangsamoro territory, after determination by the intergovernmental fiscal policy board of its feasibility.</p>
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	Zone Authority and shall continue to enjoy the benefits granted to it by the Philippine Export Zone Authority.	
Repre-sentatives in GOCCs	<p>The Regional Government shall be represented in the board of directors or in the policy-making bodies of government-owned or -controlled corporations that operate businesses directly or through their subsidiaries in the autonomous region.</p>	<p>The Bangsamoro Government shall be represented in the board of directors or in the policy-making bodies of government-owned or controlled corporations that operate a substantial portion of their businesses directly or through their subsidiaries in the Bangsamoro or where the Bangsamoro has substantial interest. The manner of such representation shall be determined in the Basic Law.</p> <p>The intergovernmental fiscal policy board shall determine the participation of the Bangsamoro Government in the results of operation of government-owned or controlled corporation and its subsidiaries operating in the Bangsamoro. It shall also determine a formula for the share</p>

		of the Bangsamoro Government from the results of said operations.
Banks and Financial Institutions	<p>The regional government shall, subject to the supervision of the Bangko Sentral ng Pilipinas, encourage the establishment in the autonomous region of:</p> <p>(a) Banks and financial institutions and their branches; and</p> <p>(b) Off-shore banking units of foreign banks.</p> <p>The Bangko Sentral ng Pilipinas shall establish an Islamic Bank and authorize the establishment of its branches in the autonomous region.</p>	<p>An intergovernmental mechanism shall be created to determine the participation of the Bangsamoro in the ownership and management of Al-Amanah Islamic Investment Bank of the Philippine and the Southern Philippines Development Authority (SPDA).</p>
Gender and Development	<p>The regional government recognizes the role of women in nation building and regional development. It shall promote their well-being and ensure their fundamental rights and equality with men.</p>	<p>In the utilization of public funds, the Bangsamoro shall ensure the needs of women and men are adequately addressed.</p> <p>For this purpose, the Bangsamoro shall set aside at least 5% of the official development funds that it receives for support programs</p>

		and activities for women in accordance with a gender and development plan.
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Some notable departures from the status quo as noted in the roundtable discussion include:

- The Annex on Wealth Sharing dropped the term “strategic minerals” in RA 9054 in lieu of its classification of natural resources into (1) metallic, (2) non-metallic, and (3) fossil fuels and uranium.
- Unlike in RA 9054 where the sharing between the Bangsamoro and the LGUs on revenues from regional taxes, fees and charges, and natural resources is defined, the Annex does not provide for a clear-cut formula.
- Whereas in RA 9054 the basis of sharing with regards natural resources is “revenues, taxes, or fees”, the Annex on Wealth Sharing speaks of “income.”
- An automatically appropriated and regularly released block grant to the Bangsamoro is a welcome change in the status quo wherein ARMM’s budget comes in the nature of a line agency budget appropriation subject to haggling and debate and for approval in Congress.

Prof. Lingga and Comm. Wahab clarified that the provisions in RA 9054 on wealth arrangements will not

go in vain even when the ARMM ceases to exist; in fact, RA 9054 will be treated as the minimum the Transition Commission, guided by the Framework Agreement on the Bangsamoro together with the 4 annexes, will seek to improve.

The Framework Agreement on the Bangsamoro and the Annex on Wealth Sharing already lay down basic authorities with respect to wealth sharing and revenue generation. These can be further maximized and defined deeper in the Basic Law.

For Johaira Wahab, the challenge is how to approach the Annex from the mindset of a member of the Transition Commission in drafting the Basic Law. She said that the Annex as a written document and memorandum must be allowed to stand on its own.

SEE ALSO: The ARMM Organic Acts and the Bangsamoro: Projected Changes to the Status Quo (A Matrix culled from Johaira Wahab's presentation in Makati City, 6th Sept. 2013), page 273.

Johaira Wahab is part of the 15-member Bangsamoro Transition Commission that is tasked to translate into law the Framework Agreement on the Bangsamoro and its annexes. This law will give rise to rights and obligations of the MILF and the GPH, and other stakeholders and will pave the way for the establishment and administration of the Bangsamoro

region. The Transition Commission may also propose amendments to the Constitution if it sees it necessary. She said the TC will be guided by the belief that the status quo is unacceptable so that when it drafts the Bangsamoro Basic Law, it will not be perpetuating what is not working in the current setup.

Comm. Wahab reiterated the view on progressive realization of rights, a principle she said the MILF has insisted on not only for wealth sharing but also for power sharing. This means that competence in the administration of the Bangsamoro Government shall be granted to the MILF as it evolves its capacities overtime. The Annex on Wealth Sharing as an instrument then should not be construed as a diminution of what has already been achieved in the past even as new institutions and mechanisms are being established.

Comm. Wahab stressed further that the work of Transition Commission should not preempt the prerogatives of the Bangsamoro Parliament.

“[The Transition Commission] is to make sure they [Bangsamoro Parliament] have the power and the guidance they need when they exercise the powers of the Bangsamoro Government,” she said.

Prof. Lingga hopes the Annex on Wealth Sharing is a departure from the current realities in the ARMM. The Annex on Wealth Sharing achieves its purpose if it

effects change in status quo: an increase in revenues and wealth generation capacity ultimately resulting in the highest form of fiscal autonomy for the Bangsamoro.

Prof. Lingga emphasized that the recognition of the Bangsamoro aspiration does not end in the Annex on Wealth Sharing. The Annex is just the beginning of the pursuit of the mechanism to further develop fiscal autonomy for the Muslim region.

The Annex on Wealth Sharing presents a great opening in the packaging of Bangsamoro's fiscal autonomy in the Basic Law. There is a need to explore in depth the implications of the new sharing regimes, the fees and charges from newly devolved powers, and the connection between the wealth sharing annex and the power sharing annex; the face of the latter is yet being negotiated.

While the Annex on Wealth Sharing defines the sharing regime between the central government and the future Bangsamoro, how would the sharing between the Bangsamoro and the local government units look like? Would it be better to define the sharing scheme between the Bangsamoro and the LGUs in the Basic Law? Would it be better not to quote it there to allow flexibility and leeway in the negotiations between the Bangsamoro and the LGUs in the hands of the Bangsamoro Parliament? In fact, better not define it at all completely in the Basic Law and let the Bangsamoro Parliament decide on it?

Comm. Wahab bats for a proactive stance on taxation, especially with regards taxes that are not reserved to the national government. She added that LGUs can come up with as many taxes on their list as long as they observe and respect the principles of taxation. This recommendation boils down to the Basic Law providing space for taxation, but letting the Bangsamoro tax board decide further on the specifics of these taxes. Aside from the provision on taxes which saw an increase in the Bangsamoro's share, another welcome feature of the Annex on Wealth Sharing is the block grant.

Comm. Wahab explained the apparent importance accorded to it in the Annex on Wealth Sharing.

Although the Annex is silent on the formula for the amount of the block grant, and it still remains unclear what will be the source of its appropriation, it does provide that the block grant will be automatically appropriated and readily released on an annual basis. This is a turnaround from the status quo wherein ARMM's budget comes as a line agency appropriation from the national government to the region. Thus the prerogative of the region to plan its development and expenditures is subject to the approval of the national government, making mockery of the very nature of the ARMM which is supposed to be autonomous. In many other forums, experts have attributed ARMM's failure to systems that proved hostile to its autonomous design. That the Annex on Wealth Sharing let go of the term

“strategic minerals” is also a welcome change. Now the Annex has clearer categories that include uranium, fossil fuels (natural gas, petroleum, coal), and metallic and non-metallic resources.

The sharing schemes between the central government and the Bangsamoro vary depending on the category. What is different this time is the base for this sharing. In RA 9054 it’s “revenues, taxes, or fees”. The Annex on Wealth Sharing says it’s “government income.”

For Comm. Wahab, this provision means that the Bangsamoro shall have a share in both taxes and income in the exploration, development and utilization of natural resources. She said this change must be appreciated as the Bangsamoro now has more space to maximize its revenues.

This raises the possibility of defining furthermore “income” at the level of the Transition Commission and the Basic Law, or at the upcoming Bangsamoro Parliament.

The Transition Commission will also detail the inter-governmental fiscal policy board whose purpose is to review revenue-capacity of the Bangsamoro vis-à-vis its development needs.

Overall, the TC will seek to improve on the

current modalities with respect to the current sources of revenues to ensure that the Bangsamoro truly departs from the unacceptable status quo. Although at the moment the TC cannot fully move forward absent two more annexes: the Annex on Power Sharing and the Annex on Normalization. For now, all it can commence is preliminary work like preparation of work plans, and initial consultations.

Lawyer and former ARMM Executive Secretary Naguib Sinarimbo (under the administration of OIC governor Mujiv Hataman) said the Basic Law should provide a system to fully operationalize the intentions of the parties in the negotiations. He also took notice of Item 3 under Taxing Powers in the Annex on Wealth Sharing, which says:

“Revenues from the additional taxes beyond those already devolved to the ARMM and the Bangsamoro share in revenues derived from exploration, development and utilization of natural resources will be deducted from the amount comprising the annual block grant. This is without prejudice to the just share of Bangsamoro’s constituent local government units in the national taxes.”

Atty. Sinarimbo cast particular attention to the sequencing of the language in the provision: a block grant which will have automatic deductions.

The Annex on Wealth Sharing already provides

for the automatic appropriation of the block grant, a good start for the Bangsamoro. Atty. Sinarimbo cautioned that such deductions may result in non-automatic appropriation and irregular release of block grants. His advice is for the TC to work out a mechanism so that this provision would truly reflect the spirit of automatic appropriation and regular release.

Another monumental task is finding the formula for the block grant. "If you don't have a good formula for the block grant, you have a problem in managing the deductions," Atty. Sinarimbo added.

He said the formula should consider the services the Bangsamoro would deliver, the size of the bureaucracy, and the development goals the Bangsamoro would want to achieve. Since these things are not settled in the negotiations, the TC will have to lobby and convince Congress on how it conceives the Bangsamoro to look like.

On the provisions on natural resources in the Annex on Wealth Sharing, Atty. Sinarimbo wants to see if the enumeration really captures the negation of the regalian doctrine. If not, "it will be further argued on the Annex on Power Sharing."

"Even if you achieve 'resources in the Bangsamoro', it does not negate the fact that the Bangsamoro is within the Philippine republic... so even if you manage to

remove the term 'State', it does not automatically result in the negation of the concept of regalian doctrine," he elaborated.

Atty. Sinarimbo added that it is essential for parties to put on specific language, for instance, on the categorization of natural resources into metallic and non-metallic.

A question was raised as to what will happen to other resources not covered in the enumeration. Do parties go back to regalian doctrine then?

"More than the classification, there should be enumeration as to what specifically are included in the classification," Atty. Sinarimbo said.

A way forward is to see if the enumeration covers essentially the minerals that the Bangsamoro wants included. These challenges can be addressed in the subsequent annexes and in the Basic Law itself.

On the apparent silence of the Annex on Wealth Sharing on coastal, cultural, agricultural and forest resources, Atty. Sinarimbo clarified: "The Annex on Wealth Sharing deals only with division of wealth between the Bangsamoro and the Central Government. There is no assertion yet on who controls these resources, or whose jurisdiction these belong to. There is an attempt to not take up the issue on control in the wealth sharing

annex because this will be dealt with in the next annex: Power Sharing.”

Atty. Sinarimbore recalled that in the 1996 Final Peace Agreement (with the Moro National Liberation Front), there was already an assertion that since these resources are within the Bangsamoro domain, the Bangsamoro also exercises control over these. The provision was an attempt to negate the regalian doctrine; that these resources essentially belong to the Bangsamoro except strategic minerals which according to the 1996 Final Peace Agreement “will be defined later.” Unfortunately, as treated later in RA 9054, “natural resources” remained shrouded in vagueness.

Comm. Wahab believes that all wealth above land, including agriculture and fisheries, should have already been devolved to the autonomous region in RA 9054.

It follows that when authorities are exclusive to the Bangsamoro, for instance agriculture and fisheries, imposition of taxes, fees and charges in connection with these powers are also exclusive.

Iranun Development Council (IDC) Finance Director Mimbalawag Mangotara, Jr. queried on the review mentioned in the Annex on Wealth Sharing. He wanted to know why a review will be called for if block grants are automatically appropriated.

Prof. Lingga clarified that the review is a mechanism to see if the formula for block grant is substantial.

“The idea of the block grant is temporary, because if we are earning enough. Block grant will be reduced by the review if we are already having a surplus. This is not a review for debating the budget in Congress. The review is a basis for appropriation,” he added.

Still on block grant, Bishop Colin Bagaforo wanted the term “automatic appropriation” cleared up.

Prof. Lingga stressed that automatic appropriation can only be done if there is already a formula. If such formula is in place, Congress would already know how much would be appropriated to the Bangsamoro making a budget hearing unnecessary. It is not clear however if the disbursement of block grant would start during the transition authority or the regular government. This will depend on the Basic Law.

On how the special fund for rehabilitation in the Bangsamoro areas would be released would also depend on the Basic Law. Congress would ultimately decide on all these.

Anwar Malang aired his reservations on how the provisions would be converted into an enabling law.

“What happens to the IRA of the LGUs? What happens to the share of the LGUs as far as the share of the Bangsamoro is concerned?” he wondered.

In the current setup, the IRA is given directly by the national government to the LGUs rendering ARMM powerless over LGUs as many observers have pointed out.

Prof. Lingga said that the Framework of Agreement on the Bangsamoro ensures that LGUs will continue to receive their share in the national taxes.

“We have enough safeguards that whatever privileges they enjoy right now will not be diminished. How things or mechanisms will look like is up for discussion. The less that can be done is the status quo,” added Prof. Lingga.

For Comm. Wahab the key challenge is putting together the following principles into an enabling law: First, it is provided in the FAB that for purposes of good governance, the privileges currently enjoyed by the LGUs are non-diminutive. Second, the Annex on Wealth Sharing provides that the block grant shall be without prejudice to the just share of the constituent LGUs in the national taxes. Third, in the Constitution, the LGUs are automatically released their share in the national taxes. Lastly, the new political entity shall be autonomous.

The Basic Law can address this dilemma by coming up a good formula for computing the share of the LGUs in the national taxes. This scenario already addresses the funding source (national taxes), modality (automatically released), the formula (to be fixed in the Basic Law), and the relationship of the Bangsamoro government and the LGUs (because of the formula).

“We’re going to fix the just share of the LGUs in the Basic Law. We will try as much as possible that the formula will also work for the betterment of the LGUs in the region, which is also beneficial for the Bangsamoro government because this will be a ‘come-on’ for other LGUs [outside Bangsamoro]. Our formula is better. If you want this formula better join the Bangsamoro,” Comm. Wahab said.

According to Atty. Sinarimbo, the negotiating panels should address the ability to provide a conscious and unified attempt to attain new relations with the central government.

“Are we prepared to change the relations among the central government, the Bangsamoro, and the LGUs for the better? That decision is left to us,” he said.

Fr. Mercado suggested that with the Annex on Wealth Sharing already finished, the TC committee on wealth sharing can begin consultations because people are waiting for things to move.

Comm. Wahab said the delay in the negotiation was totally unexpected.

She explained: "When the EO was issued in Dec 2012 organizing the Transition Commission, the imagination was that by January 2013, all the annexes would have already been signed. Everything appears to be on hold [now] because it looks like we are waiting but it's only because we didn't expect that we would have to wait. The intention of the President when the mandate of the TC was formulated was for the TC not to work on the individual annexes but to work on the comprehensive peace agreement as a whole. But as present, the commissioners have been conducting consultations with their respective constituents."

For Rajah Buayan, Maguindanao Mayor Zamsamin Ampatuan, the concern on the wealth sharing arrangements is summed up in one question: Will this contribute to the improvement of life of every ordinary person in the Bangsamoro territory?

He said the sharing formula should also serve as a baseline the Bangsamoro Parliament can improve on to get resources down to where they should really go.

Another suggestion is to look at the wealth sharing process and how it can be enhanced in terms of land ownership, utilization of surface resources, and property taxes.

Mayor Ampatuan elaborated further: "From the perspective of ordinary masses, the issue of land is really sentimental. When we talk of land resources - the surface part of it - maybe it is not as interesting because we think of the greater wealth beneath it, but what is more effectual to the ordinary person is what piece of land they have and how does the government make use of the ordinary person with respect to the utilization of his surface resources."

Mayor Ampatuan said that if issues on land management were addressed, many problems would have already been solved.

"If we address land tenureship problems, we also address an interface of problems like land conflicts," he said.

Prof. Lingga said that issues pertaining to land management such as land distribution, survey, and registration will be discussed in the Annex on Power Sharing. As such the negotiating panels will also have to determine what powers will be reserved to the central government, shared between the central government and the Bangsamoro, or exclusive to the Bangsamoro.

Eventually, these issues will be resolved in the Basic Law, or by the Bangsamoro Parliament. "The purpose of the negotiations is to provide the avenue so that when we talk of the details, the Bangsamoro

Parliament can do it," added Lingga.

Fr. Mercado said he admires the consensus on wealth sharing but he hopes haggling will not be the trend as the panels seek to finalize the details of the Annex on Power Sharing. He said the whole paradigm is about the good of the whole; hence what is good for the Bangsamoro is good for the whole country.

Prof. Shiela Algabre wanted the opinion of experts whether the Annex on Wealth Sharing would shake up the status quo.

Atty. Sinarimbo said it succinctly: "We have not really radically shaken up the status quo with the Annex on Wealth Sharing. I would have wanted it shaken totally. But this is a negotiation and we have to make do with what consensus the parties can come into.

"For one, I would have wanted a fixed formula for block grants, a more radical way of establishing relations between the Bangsamoro and the Central Government in terms of control over money.

"I would have wanted a more radical control taking into assertion the issue of ancestral domain with respect to natural resources, mines and minerals.

"There is more fundamental question on how do we deal with the issue on land and territory as a matter

of concept. For the MILF, it has always been entrenching and securing a definite territory for the Bangsamoro so that we stop the marginalization of the Bangsamoro people.

“We want a piece of our territory, what’s left to it secured and entrenched – territory that will perpetuate the identity of its people.

“In terms of autonomies, this has always been the central assertion of peoples. In our case, we want a piece of our territory and we do not want this territory and its peoples diluted, so that there were provisions [in the past] on limitations on migration but this did not happen in the current negotiations. What can simply be achieved is a possibility for a more established territorial jurisdiction for the Bangsamoro and at the same time devolution of certain powers to ensure that this territory remains with the Bangsamoro.

“What are its features? We have to look at issues such as who has authority on titling, issuing of titles, so that we will not have issues on people fighting for titles in some areas, and in effect reducing the territory.

“We will continue to oppose the regalian doctrine because that eliminates the basis for the assertion of the Bangsamoro of the right to self-determination. There will be no basis for self-determination without a space.

“In the MOA-AD, the Bangsamoro ancestral domain is segregated from the public domain. I don’t think we can achieve that now but there can be some degree of semblance of that assertion to ensure that we have a better territory and we have an area we exercise jurisdiction over. ”

Speaking for the security sector, Maj Gen Romeo Gapuz reiterated support to the primacy of the peace process. He said joint meetings with local chief executives facilitate smooth calibrated response by the AFP and PNP to security threats. His advice is to refrain from issuing political statements that may provoke conflicts and spoil the peace process resulting in displacements and loss of lives.

Prof. Lingga said mechanisms such as those employed by the joint Coordinating Committee on the Cessation of Hostilities (CCCH) of the Government of the Philippines and the MILF are in place to address local conflicts.

Consortium of Bangsamoro Civil Society(CBCS) Chairperson Guiamel Alim hopes the signing of the Annex was made not for the sake of President BS Aquino’s State of the Nation Address but because of a long term vision for peace. He said negotiators should also look at the “language” of the negotiations to make sure both parties really understand each other.

“If there’s problem of language at the level of negotiating parties, how much more for the people on the ground?” he added.

The Transition Commission would also want to ponder whether deductions to the block grant could be imposed after ten years of entrenching the Bangsamoro so income is given a longer period to build up first and whether the IRA of LGUs should be included in the block grant or issued separately.

IPDEV’s Ms. Aveen Acuña-Gulo sees three striking points in the current progress of the peace talks.

First, the non-diminution of the benefits enjoyed in the present ARMM setup gives flexibility and serves as window of opportunity to move the peace process forward. Second, the handling of natural resources, one of the very core issues in the ongoing discussions in terms of authorities in the Annex on Wealth Sharing, must be inclusive and “not outside the radar.” She believes “land is basically the wealth here.” Third, civil society participation in raising consciousness and awareness on peace and the peace process are laudable as this promotes transparency and inclusiveness.

Launched in February 2012, IPDEV has been promoting rights of indigenous peoples in the ARMM by mainstreaming their issues and concerns in regional and national policymaking bodies.

Ms. Gulo hopes to see a Bangsamoro region that recognizes the rights, customs, and traditions of non-Islamized indigenous peoples.

In the end, as Atty. Sinarimbo put it, the ultimate challenge is producing an honorable agreement that addresses the Mindanao problem.

“We have to look and see if the concessions given to the Bangsamoro are sufficient enough to address the root causes of conflict. If yes, then we can potentially end the conflict,” he said.

For the GPH and MILF, the challenge is striking a right balance to arrive at a document acceptable to both parties.

“[That] the Philippines remains a unified republic even if it grants autonomy to the Bangsamoro – that’s the key to ending the conflict,” Atty. Sinarimbo concluded.

**THE “UNACCEPTABLE STATUS
QUO” AND THE ANNEX ON
WEALTH-SHARING**

THE “UNACCEPTABLE STATUS QUO” AND THE ANNEX ON WEALTH-SHARING

Johaira Wahab

Editor's Note: Prior to her appointment as member of the Bangsamoro Transition Commission, Johaira Wahab headed the legal team of the government peace panel in talks with the MILF. Views and opinions expressed in this article belong solely to the author.

July 16, 2013 -- Nine months after the Framework Agreement on the Bangsamoro (FAB), the signing of the Annex on Wealth Sharing is much welcome. It is the second of four annexes to the FAB, and the third major document that will comprise the “Comprehensive Peace Agreement” to conclude negotiations between the GPH and the Moro Islamic Liberation Front (MILF).

(This is, of course, without prejudice to the “exit document” referred to in the FAB that is supposed to signal the full implementation of negotiated agreements.) Let’s look briefly at the highlights of the recently signed “Annex on Revenue Generation and Wealth Sharing,” and see how it seeks to affect or improve on the ‘unacceptable status quo.’

Principles and Sources of Revenues

The wealth-sharing annex should be seen in accordance with the following principles that inspired

its negotiation:

- 1) A meaningful and truly empowering autonomy can only be achieved when both political autonomy and fiscal autonomy are ensured.
- 2) Political autonomy cannot work without being complemented by mechanisms to ensure fiscal autonomy.
- 3) There is a need to expand the tax base in the Bangsamoro to generate more revenues to finance programs and policies identified by the Bangsamoro Government.
- 4) Areas covered in the prospective Bangsamoro are among the most underdeveloped in the country, and the need to provide sufficient means for them to "catch up" with the rest of the country is recognized.
- 5) In the exercise of the Bangsamoro's fiscal powers, there is a need to consider certain principles in devolution: equalization, equity, accountability, administrative simplicity, harmonization, economic efficiency and fiscal autonomy.

According to the annex on wealth-sharing, to achieve full fiscal autonomy, the Bangsamoro can draw on the following sources of revenues:

1) Taxes, fees and charges

2) Fund transfers from the National Government

3) Share in “government income” from the exploration, development and utilization of natural resources in the region

4) Other sources of revenues

Taxes, Fees and Charges

As for TAXES, the Bangsamoro will have the power to levy taxes in its territorial jurisdiction. These taxes will include those already devolved to the current ARMM under R.A. 9054. (For further information, see Article IX, Section 8, in relation to the list of excepted taxes under Section 7. See also MMA Act no. 49, for taxes currently levied by the ARMM in its regional tax code. Said tax code is pursuant to taxing powers provided in R.A. 9054.)

In addition to taxes already devolved to the ARMM, the Bangsamoro may now also levy the following taxes: capital gains tax, estate tax, documentary stamp tax and donor’s tax. Almost all of these taxes were originally expressly reserved to the National Government in R.A. 9054, but are now devolved to the Bangsamoro.

For all taxes levied by the Bangsamoro, all

collections (100%) will accrue to the coffers of the Bangsamoro, subject to the submission of returns and regular auditing standards.

Meanwhile, the National Government maintains its taxing powers in the Bangsamoro as well. It will continue to levy and collect national taxes in the region. However, the Bangsamoro also takes its share from these collections. For national taxes collected from the region, there is a 75-25 sharing in the revenues in favor of the Bangsamoro.

SUMMARY for taxes, fees and charges (TFC) due within a region	Status Quo	Annex
TFC imposed by Regional Government	100% in favor of the ARMM	100% in favor of the Bangsamoro
TFC imposed by National Government	70-30, in favor of the ARMM	75-25, in favor of the Bangsamoro

On this score, the status quo under R.A. 9054 is 70-30 sharing on taxes collected in the ARMM in favor of the Regional Government. The 70% share of the region is shared equally (35-35) between the region and the province or city concerned. The shares of the other LGUs are also provided in R.A. 9054.

Under this setup, cities and provinces are theoretically at a disadvantage compared to their counterparts who are not part of the ARMM. This is because the Local Government Code (R.A. 7160), which

is the basis for sharing in revenues with respect to the LGUs not part of the ARMM, provides for a sharing formula of 60-40 in favor of the National Government, where the share of cities and provinces is 40%, or 5% more than what cities and provinces in the ARMM get.

[Note: There are also some who argue that ARMM LGUs do actually benefit under the current setup by receiving double their share in taxes: First, they receive their internal revenue allotments (IRA) computed under R.A. 7160, just like their non-ARMM counterparts, and this IRA is in the nature of a share in national taxes, regardless of origin. Second, they also receive their share in taxes collected from (originating in) the region as provided in R.A. 9054.]

In the new setup however, there is an additional 5% in the share of the Bangsamoro, which addition may be credited to the share of cities and provinces in the Bangsamoro to equalize their situation with other LGUs. The annex is, however, silent on the sharing formula between the Bangsamoro Government and its component LGUs. It may be supposed that this is a decision point passed on to the Basic Law.

As for FEES and CHARGES, the Bangsamoro is given the power to impose taxes, fees and charges in the exercise of its exclusive and concurrent powers, as may be defined in the annex on power sharing. In this case, all such fees and charges shall accrue to the Bangsamoro

(100%).

As for fees and charges levied and collected by the National Government, the same sharing formula in taxation of 75-25 in favor of the Bangsamoro applies.

Fund Transfers from the National Government

There are two kinds of fund transfers from the National Government to the Bangsamoro recognized in the annex: 1) block grants and 2) the special development fund.

BLOCK GRANTS to the Bangsamoro are fund transfers from the National Government to cover the Bangsamoro Government's expenditures. This is a revenue-generating mechanism introduced in the annex that is quite different from what prevails in the status quo.

At present, the ARMM gets fund transfers from the National Government, but this is in the nature of a "line item appropriation" in the national budget, which the ARMM government needs to justify or defend in Congress annually. Many comment that this subverts the political autonomy of the region, by institutionalizing fiscal control by the National Government over the autonomous region. Note that even under the Constitution, while autonomous regions exist "within the framework of national sovereignty and territorial

integrity,” they are under the general supervision of the President, but not under the control of the National Government.

In the wealth-sharing annex, this fund transfer is now in the nature of an automatic appropriation, regularly released to the Bangsamoro on an annual basis.

Although the annex is yet silent on the formula for this appropriation or its sourcing, there is indication that the amount cannot be less than the last budget given to the ARMM before the Bangsamoro took its place. Ultimately, these two points on formula and fund sourcing seem to be matters that will later be determined in the Basic Law. However, the Basic Law must consider that the amounts received by the Bangsamoro Government as its collections from the four newly devolved taxes and in “revenues” from the EDU of natural resources are to be deducted from its block grant.

This annual block grant is subject to internal budget processes, must be allocated in a regional appropriations act, and not exempt from audit.

Aside from block grants, the Bangsamoro shall also receive from the National Government a SPECIAL DEVELOPMENT FUND for “rehabilitation and development purposes.” The amount for the fund will be determined through a joint needs assessment team constituted by the negotiating panels. The team

will submit its “recommendation” to the Transition Commission, which shall then include the same as a proposal in the Basic Law.

Share in the Exploration and Development of Natural Resources

The Bangsamoro will also have a share in “government income” from exploration, development and utilization (EDU) of natural resources in the Bangsamoro. The sharing formula varies depending on the kind of resource:

- 1) For fossil fuels and uranium, the sharing is at 50-50.
- 2) For others, if the resource is non-metallic, the Bangsamoro receives all of the government income (100%). If the resource is metallic, the sharing is 75-25 in favor of the Bangsamoro.

Here we can also note a comparison with the status quo: In R.A. 9054, the general rule is a sharing of 70-30 in favor of the ARMM for “taxes imposed on natural resources.” They are in fact treated similarly as “national internal revenue taxes, fees and charges” in Article IX of the ARMM Organic act. Thus, under the status quo, the 70% share of the region is divided equally between the regional government and the city or province concerned.

However, R.A. 9054 makes an exception where the resource may be considered a “strategic mineral,” which is characterized in the law (not defined, nor exclusively enumerated as such) as “uranium, petroleum, and other fossil fuels, mineral oils, all sources of potential energy, as well as national reserves and aquatic parks, forest and watershed reservations....” Where the resource is considered a strategic resource, the National Government and the Bangsamoro share equally (50-50).

One common objection to “strategic minerals” is its somewhat arbitrary application in practice. For instance, even minerals which are not commonly associated with those in the enumeration may be unilaterally classified by National Government as “strategic,” (for example, nickel) thereby removing it from the purview of the ARMM’s authority, and affecting as well the sharing of revenues over the same.

SUMMARY for revenues from the EDU of natural resources in the region Status Quo Annex
"Strategic Minerals" under RA 9054

SUMMARY for revenues from the EDU of natural resources in the region	Status Quo	Annex
"Strategic Minerals" under RA 9054		

Note: There is no more category of "strategic Minerals" in the wealth sharing annex.	50-50 on "revenues derived from the use and development of strategic minerals" (In a latter provision of RA 9054, this is "revenues, taxes and fees".)	50-50 on government income from EDU of fossil fuels (petroleum, coal and natural gas) and uranium
Non-strategic minerals/resources other than fossil fuels and uranium	70-30 on "taxes imposed on natural resources", in favor of the ARMM	100% on government income from EDU of non-metallic resources, in favor of the Bangsamoro 75-25 on government income from EDU of metallic resources, in favor of the Bangsamoro

It seems that the wealth-sharing annex has introduced some key changes to this regime:

First, unlike in R.A. 9054 where the Bangsamoro only shares in "taxes imposed on natural resources" or, with respect to strategic minerals "revenues, taxes and fees derived from the use and development of strategic minerals," the annex now clearly provides that the Bangsamoro also has a share in the "government income," which may be understood as the government's share in the income from EDU of resources, net of taxes.

Thus in the new regime, the Bangsamoro will have a share both in taxes, fees and charged on natural resources (as per the relevant formulas under taxation, first discussed), as well as in the government income on EDU of natural resources. Note the marked change in language between R.A. 9054 and the wealth-sharing annex: Article IX of the law uses “taxes imposed on natural resources,” while the annex uses “government income.”

In short, the share of the Bangsamoro on government income from EDU of natural resources may be construed to be without prejudice to its share in taxes, fees and charges on the EDU of natural resources.

Second, the sharing formula now acknowledges a 100% share over some resources (i.e. non-metallic) to accrue to the Bangsamoro, and increases the share of the Bangsamoro in income from metallic resources from 70% to 75%. Again this increase may be appreciated to benefit LGUs in the Bangsamoro, but this still needs to be reflected in the Basic Law.

Third, the present annex has let go of the fuzzy category that is “strategic minerals,” which has allegedly been an excuse for inequitable dealings over natural resources between the National Government and the ARMM. Now the category is clear: only fossil fuels, (particularly petroleum, coal and natural gas) and uranium are excepted from the general rule. It is only

with respect to these resources that the sharing is at 50-50 between the National Government and the Bangsamoro.

The sharing of revenues between the Bangsamoro Government and its component LGUs may be provided in the Basic Law, or perhaps even in a regional legislation, to give the LGUs and the Bangsamoro Government room and authority to continually review revenue-sharing regimes without having to seek amendments in Congress.

The provision for a sustainable development body to be funded from the share of the Bangsamoro in revenues from EDU of natural resources is also laudable.

We now await the sharing regime in jurisdiction over natural resources that should be in the power-sharing annex, although it seems that the revenue-sharing regimes over natural resources in the wealth-sharing annex are independent of the respective authorities of the National Government and the Bangsamoro over natural resources.

Other Sources of Revenues

Aside from these, the Bangsamoro may also tap on the following sources of revenues, with details provided in the annex:

- 1) government income from GOCC's, and trade

and financial institutions owned by the Bangsamoro

2) Overseas development assistance

3) Loans

4) Economic agreements

5) Grants and donations to the Bangsamoro

Other matters

The annex also provides further allowance to the Bangsamoro for a certain period from its establishment, consistent with the “catch-up principle”:

First, the 25% share of the national government in taxes, fees and charges collected in the region may be remitted to the Bangsamoro for a given period, though not yet determined in the annex.

Second, while the tax collections of the Bangsamoro on the four newly devolved taxes and revenues from EDU of natural resources are going to be deducted from its block grant, the application of this modality is deemed suspended for full four years from the establishment of the Bangsamoro.

The annex also provides for certain authorities that the Bangsamoro may exercise with respect to certain

economic or financial institutions. It also provides for the creation of the intergovernmental fiscal policy board, which is a key platform to clarify, resolve or coordinate fiscal policies between the National Government and the Bangsamoro. This was also provided in the FAB.

The annex also reminds us of the authority of the Bangsamoro to have its own auditing body, without prejudice to the mandate of the COA.

Another welcome provision is the earmarking of 5% of “official development funds” received by the Bangsamoro for programs and special measures for women in accordance with GAD plans.

Finally, and on a personal note, I welcome the recognition of the “aspiration of the Bangsamoro to exercise additional fiscal powers” and the need for the parties to cooperate to achieve this through “necessary processes and modalities”. This is consistent with what the MILF has consistently pushed for in the negotiations that there should be a platform for continuous discussions of how the Bangsamoro Government can be made more autonomous, as it builds and develops more capacities in self-governance.

What now?

The wealth-sharing annex brings us two annexes closer to the comprehensive peace agreement. There

are now two annexes remaining on the table: the one on power sharing and the other on normalization. We can dare say that among the four, the annexes on wealth sharing and power sharing are most significant because they give the picture on how the establishment of the Bangsamoro is envisioned to change or improve the “unacceptable status quo.”

Meanwhile, the annex on transitional arrangements provides the details on how we can get from the status quo to what is hoped to be the new and improved Bangsamoro. The normalization annex, on the other, reminds us that these negotiations are not just about a mere legislative agenda to change a law, or to craft a new one, but are, after all, for the purpose of ending decades of armed conflict, and addressing the impact of conflict on social, political and economic realities in communities.

The wealth-sharing annex should be read in conjunction with the FAB and the other annexes. For instance, in appreciating the impact on LGUs of new revenue-sharing regimes between the National Government and the Bangsamoro, one must recall the statement in the FAB that, “...privileges already enjoyed by the local government units under existing laws shall not be diminished unless otherwise altered, modified or reformed for good governance pursuant to the provisions of the Bangsamoro local government code.”

The annex should also be considered in light of the unacceptable status quo depicted both in laws, such as R.A. 9054, and in the actual experiences of the ARMM. Meanwhile, the annexes should also be appreciated in view of the mandate of the Transition Commission to draft a Basic Law that is consistent with the framework agreement and its annexes. That is to say, even when signed, the FAB and the annexes do not yet give rise to the Bangsamoro. To establish the Bangsamoro, these agreements must be translated into law, which should fill in details as required by the agreements or may be required for an effective autonomous arrangement, without preempting the prerogatives of the prospective Bangsamoro Government.

With the signing of the annex on wealth-sharing, we now have a clearer picture of how the GPH-MILF negotiations intend to improve on or address the unacceptable status quo. The picture can still get more vivid when the other annexes are signed, yet still will not be complete until the Basic Law is enacted by Congress and ratified by the people.

Thus, at this point, the work with respect to the signed annexes (i.e. wealth sharing and transitional arrangements) moves on from the negotiating panels to the Transition Commission, and eventually Congress. At this point too, the importance of maintaining transparency and inclusivity in all phases of the process cannot be emphasized enough. The people must be kept informed

of the status and issues discussed in the negotiations or in the drafting of the Basic Law, and a continuous multi-sectoral engagement must be reinforced to ensure a broad-based constituency for the process. After all, peace negotiations are not just about rules, nor laws, nor words; it is rather, and most importantly, about people.

ANNEXES

The ARMM Organic Acts and the Bangsamoro: Projected Changes to the Status Quo

From the presentation of BTC Member and Floor Leader Johaira C. Wahab at the IAG training workshop for the 8th ARMM Regional Legislative Assembly, Sept. 5-6, 2013 in Makati City. To listen to the podcast of this talk online, visit this link: <http://iag.org.ph/index.php/blog/443-podcast-the-armm-organic-acts-the-bangsamoro-projected-changes-to-the-status-quo>

Bangsamoro Basic Law, drafted by the Bangsamoro Transition Commission, enacted by Congress, ratified in a plebiscite in "core territory" enumerated in the Framework Agreement

Purpose of a Bangsamoro Basic Law

- Establishment of the Bangsamoro
- Relationship with the Central Government
- Parameters for a plebiscite
- Structure of government
- Powers in governance and revenue generation
- Powers over the management, exploration & conservation of natural resources
- Transitional matters

	Organic Acts	FAB and Annexes
Core territory	<p>Art II, Sec 1.</p> <ul style="list-style-type: none">• the Organic Act for the Autonomous Region in Muslim Mindanao, is composed of the four provinces of Lanao del Sur, Maguindanao, Sulu and Tawi-Tawi, is hereby expanded to include the provinces and cities, enumerated hereunder, which vote favorably• The new area of autonomy shall then be determined by the	<p>FAB, Part I</p> <ul style="list-style-type: none">• The provinces, cities, municipalities, barangays and geographic areas within its territory shall be the constituent units of the Bangsamoro.• "geographical areas" (Art X, Sec 15)

	provinces and cities that will vote/choose to join the said autonomy.	
Plebiscite question	<p>Art II, Sec 2(a).</p> <ul style="list-style-type: none"> • Do you vote in favor of the amendments to Republic Act No. 6734...? • Do you vote in favor of the inclusion of your province or city in the Autonomous Region in Muslim Mindanao? 	<ul style="list-style-type: none"> • Do you vote in favor of the inclusion of your [province/city/municipality/barangay] in the Bangsamoro?
Vote requirement to effect inclusion	<ul style="list-style-type: none"> • A majority of the votes cast in the plebiscite in every province or city in favor of the inclusion of the province or city as members of the expanded area of the autonomous region as provided in this Organic Act shall effect their membership in the autonomous region 	<ul style="list-style-type: none"> • Majority of the votes cast at the appropriate local government unit level or geographical area
Structure of government	<ul style="list-style-type: none"> • 'Presidential-style' ARMM government • Regional Governor (executive) • Cabinet secretaries • Regional Legislative Assembly (legislative) <p>RLA: district and sectoral representatives (not exceeding 15% of the total elected reps)</p>	<p>Parliamentary Bangsamoro Government</p> <ul style="list-style-type: none"> • Chief Minister, elected by the Parliament, with no term of office • executive; head of government • Cabinet ministers • Bangsamoro Parliament (legislative)

		<ul style="list-style-type: none">• Parliament: focus on political parties and sectoral representation, with terms of office fixed by law
Frame-work for devolu-tion	<p><u>Art IV, Sec 1</u></p> <p>• Subject to the provisions of the Constitution, the Regional Government shall exercise those powers and functions expressly granted to it in this Organic Act, or necessary for or incidental to the proper governance and development of all the constituent units within the autonomous region consistent with the policy on regional and local autonomy and decentralization.</p> <p><u>Art X, Sec 17, Const.</u></p> <p>• All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.</p>	<p><u>FAB</u></p> <ul style="list-style-type: none">• Reserved powers, concurrent and exclusive powers of the Bangsamoro• Intergovernmental mechanisms
Power and insti-tutions	<p><u>Art IV, Sec 3</u></p> <p>• The Regional Assembly may exercise legislative power in the autonomous region for the benefit of the people and for the development of the region except on the following matters:</p>	<p><u>FAB</u></p> <ul style="list-style-type: none">• Legislative, executive and administrative powers

<ul style="list-style-type: none"> •(a) Foreign affairs; •(b) National defense and security; •(c) Postal service; •(d) Coinage and fiscal and monetary policies; •(e) Administration of justice... [see separate discussion] •(f) Quarantine; •(g) Customs and tariff; •(h) Citizenship; •(i) Naturalization, immigration and deportation; •(j) General auditing; •(k) National elections; •(l) Maritime, land and air transportation, and communications. The autonomous government shall, however, have the power to grant franchises, licenses and permits to land, sea and air •transportation plying routes in the provinces or cities within the region, and communications 	<ul style="list-style-type: none"> •The Central Government shall have powers on: •a) Defense and external security •b) Foreign policy •c) Common market and global trade, provided that the power to enter into economic agreements already allowed under Republic Act No. 9054 shall be transferred to the Bangsamoro •d) Coinage and monetary policy •e) Citizenship and naturalization •f) Postal service •[without prejudice to more reserved powers in the Annex] <ul style="list-style-type: none"> •“regional waters” •Islamic banking •Hajj, zakat •Hisbah
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	<p>facilities whose frequencies are confined to and whose main offices are located within the autonomous region;</p> <ul style="list-style-type: none">•(m) Patents, trademarks, trade names, and copyrights; and•(n) Foreign trade.	
Intergovernmental relations	<u>Art IV, Sec 5</u> <p>•As far as practicable, the autonomous region shall be represented in the departments, offices, commissions, agencies, and bureaus of the central government or national government that implement and enforce policies, programs and projects of the central government or national government in the region.</p>	<u>FAB and Annexes</u> <ul style="list-style-type: none">•Principles on intergovernmental relations•Intergovernmental mechanisms•e.g. intergovernmental fiscal policy board, in the participation of the Bangsamoro in national GOCCs
Basic rights	<u>Art III, Sec 5</u> <ul style="list-style-type: none">•Respect for beliefs, customs, and traditions of the people in the autonomous region and the free exercise of their religions•No person in the autonomous region shall be subjected to any form of discrimination on account of creed, religion, ethnic origin, parentage or sex.	<u>FAB</u> <p>Basic rights in the FAB, "in addition to those already enjoyed"</p> <p>Right of women to meaningful political participation and protection from all forms of violence</p>

	<p><u>Art III, Sec 10</u></p> <ul style="list-style-type: none"> • The Regional Government shall uphold and protect the fundamental rights of women and children including the right of women to engage in lawful employment. Women and children, especially orphans of tender age, shall be protected from exploitation, abuse or discrimination. 	
<p>Administration of justice</p>	<p><u>Art III, Sec 5.</u></p> <ul style="list-style-type: none"> • The Regional Assembly, in consultation with the Supreme Court and consistent with the Constitution, may formulate a Shari'ah legal system including the criminal cases, which shall be applicable in the region, only to Muslims or those who profess the Islamic faith. • The Shari'ah courts shall have jurisdiction over cases involving personal, family and property relations, and commercial transactions, in addition to their jurisdiction over criminal cases involving Muslims. • The Regional Assembly shall, in consultation 	<p><u>FAB, Part III</u></p> <ul style="list-style-type: none"> • The Bangsamoro shall have competence over the Shari'ah justice system. The supremacy of Shari'ah and its application shall only be to Muslims.

	<p>with the Supreme Court, determine the number and specify the details of the jurisdiction of these courts.</p> <p><u>Art VIII, Sec 5.</u></p> <ul style="list-style-type: none">• The Regional Assembly of the autonomous region shall provide for the establishment of Shari'ah courts.• Shari'ah Appellate Court <p><u>Art IV, Sec 3</u></p> <ul style="list-style-type: none">• (e) Administration of Justice. It may, however, legislate on matters covered by the Shari'ah. The Shari'ah shall apply only to Muslims. Its application shall be limited by pertinent constitutional provisions, particularly by the prohibition against cruel and unusual punishment and by pertinent national legislation that promotes human rights and the universally accepted legal principles and precepts; <p><u>Art VIII, Sec 19</u></p> <ul style="list-style-type: none">• Tribal courts• Customary law	<p></p> <p><u>Art IV, Sec 3</u></p> <ul style="list-style-type: none">• The Bangsamoro Basic Law shall provide for justice institutions in the Bangsamoro. <p><u>FAB</u></p> <ul style="list-style-type: none">• The customary rights and traditions of indigenous peoples shall be taken into consideration in the formation of the Bangsamoro's justice system. This may include the recognition of indigenous processes as alternative modes of dispute resolution.
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Devolution to LGUs in the region	<p><u>Art III, Sec 3</u></p> <ul style="list-style-type: none">• The regional government shall adopt a policy on local autonomy whereby regional powers shall be devolved to local government units particularly in areas of education, health, human resource, science and technology and people empowerment.• The Regional Assembly may not pass any law to diminish, lessen, or reduce the powers, functions, and shares in the internal revenue taxes of the said local government units as provided by Republic Act No. 7160, the Local Government Code of 1991. <p><u>Art IV, Sec 1</u></p> <ul style="list-style-type: none">• The Regional Government may enact its own regional administrative code and regional local government code consistent with the Constitution.• The powers and functions already vested upon and the shares of the national taxes provided by Republic Act No. 7160, the Local Government	
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	<p>Code of 1991, to provinces, cities, municipalities, and barangay in the autonomous region shall not be reduced.</p>	<p><u>FAB, Part I</u></p> <ul style="list-style-type: none">• The authority to regulate on its own responsibility the affairs of the constituent units is guaranteed within the limit of the Bangsamoro Basic Law.• The privileges already enjoyed by the local government units under existing laws shall not be diminished unless otherwise altered, modified or reformed for good governance pursuant to the provisions of the Bangsamoro local government code.
<p>Public order and security</p>	<p><u>Art XIII</u></p> <ul style="list-style-type: none">• Regional Security Force, which is PNP Regional Command or Regional Police Force• Power of the Regional Governor over the Regional Police Force (operational control and general supervision) and the Regional Police Commission (ex-oficio chair)	<p><u>FAB</u></p> <ul style="list-style-type: none">• “Police force for the Bangsamoro”• professional and free from partisan political control. The police system shall be civilian in character so that it is effective and efficient in law enforcement, fair and impartial as well as accountable under the law

		<p>for its action, and responsible both to the Central Government and the Bangsamoro Government, and to the communities it serves</p> <ul style="list-style-type: none"> • continue negotiations on the form, functions and relationship of the police force of the Bangsamoro
Revenue generation	<p><u>Art IX</u></p> <ul style="list-style-type: none"> • Regional tax code • Grants, donations & loans • Principles on uniformity, equitable taxation • Sec 7 – Exceptions to taxing powers • 70-30 sharing on “national internal revenue taxes, fees and charges and taxes imposed on natural resources” • 50-50 on revenues, taxes or fees derived from the use & development of strategic minerals <p><u>Art IX, Sec 15</u></p> <ul style="list-style-type: none"> • <u>The Bureau of Internal Revenue (BIR) or the duly</u> 	<p><u>FAB & Wealth Sharing Annex</u></p> <ul style="list-style-type: none"> • Principles in WS Annex • Expanded the scope of regional taxes • 100% on regional taxes, fees and charges • Share in national taxes <ul style="list-style-type: none"> • 75-25 in favor of the BM • Share in national fees and charges <ul style="list-style-type: none"> • 75-25 in favor of the BM • Share in income from EDU of natural resources

	<p><u>authorized treasurer of the city or municipality concerned, as the case may be, shall continue to collect such taxes and remit the share to the Regional Autonomous Government and the central government or national government</u></p>	<ul style="list-style-type: none">• 50-50 on fossil fuels & uranium• 75-25 on metallic minerals• 100% on non-metallic minerals <p><u>Wealth Sharing Annex</u></p> <ul style="list-style-type: none">• Bangsamoro shall have the power to create offices for assessment and collection of regional taxes
Economic agreements	<p><u>Art IX, Sec 11</u></p> <p><u>• Subject to the provisions of the Constitution, the Regional Government shall evolve a system of economic agreements and trade compacts to generate block grants for regional investments and improvements of regional economic structures which shall be authorized by law enacted by the Regional Assembly. Pursuant to specific recommendations of the Regional Economic and Development Planning Board, the Regional Government may assist local government units in their requirements for counterpart funds for foreign-assisted projects.</u></p>	<p><u>FAB, Part III</u></p> <ul style="list-style-type: none">• The Central Government shall have powers on:<ul style="list-style-type: none">• c) Common market and global trade, provided that the power to enter into economic agreements already allowed under Republic Act No. 9054 shall be transferred to the Bangsamoro

Appropriation in national budget	<u>Art III, Sec 13</u> <ul style="list-style-type: none"> <u>The central government or national government shall provide the autonomous region a proportionate and equitable share in the annual national budget and foreign assisted projects...</u> <u>Art V, Sec 1</u> <ul style="list-style-type: none"> <u>In addition to other acts which he or she may impose under the Constitution and this Organic Act, the President may suspend, reduce, or cancel the financial blocks or grants-in-aid, funds for infrastructure, and other forms of assistance intended for the autonomous region if (1) fails to account.. And (2) fails to respect human rights...</u> 	<u>Wealth Sharing Annex</u> <ul style="list-style-type: none"> The Central Government shall provide a block grant to the Bangsamoro, based on formula in the Basic Law, under a system of automatic appropriation and regular release. Subject to audit
Management of natural resources	<u>Art III, Sec 8</u> <ul style="list-style-type: none"> <u>Subject to the provisions of the Constitution and this Organic Act, the Regional Government shall have the authority, power, and right to explore, develop and utilize the natural resources...</u> 	<ul style="list-style-type: none"> Pending determination in the Power Sharing Annex Sharing of jurisdiction (EDU), not ownership, over natural resources:

	<ul style="list-style-type: none"> <u>Muslims and the other indigenous cultural communities shall have priority rights to explore, develop and utilize... as parts of their respective ancestral domains.</u> 	<ul style="list-style-type: none"> Subterranean resources (minerals and others) Living resources Other non-living resources Conservation of natural resources For some resources, implications on transportation
Ancestral domain and ancestral lands	<p><u>Art X, Sec 1</u></p> <ul style="list-style-type: none"> <u>Subject to the Constitution and existing laws, the Regional Government shall undertake measures to protect the ancestral domain and ancestral lands of indigenous cultural communities.</u> <u>All lands and natural resources in the autonomous region that have been possessed or occupied by indigenous cultural communities since time immemorial, except when prevented...</u> 	<p>FAB</p> <ul style="list-style-type: none"> Indigenous peoples' rights shall be respected. Is ancestral domain part of the public domain of the Bangsamoro?
Amendments and revisions	<p><u>Art XVII</u></p> <ul style="list-style-type: none"> Consistent with the provisions of the Constitution, this Organic Act may be reamended or revised by the 	

	<p>Congress of the Philippines upon a vote of two-thirds (2/3) of the Members of the House of Representatives and of the Senate voting separately.</p> <ul style="list-style-type: none"> • The Regional Assembly shall have the power to initiate proposals for amendment to or revisions of this Organic Act by a vote of three-fourths (3/4) of all its Members or it may call for a Regional Consultative Commission to propose the amendment or revision. In any case, the amendment or revision shall require the approval of the Congress of the Philippines by a vote of two-thirds (2/3) of the Members of the House of Representatives and of the Senate voting separately. 	
<p>Oversight committee</p>	<p><u>Art XVIII</u></p> <ul style="list-style-type: none"> • Within one (1) month from the approval of this Organic Act, an oversight committee composed of: (a) the Executive Secretary as Chairman, (b) the Secretary of Budget and Management, (c) the Regional Governor of the autonomous region, (d) the Speaker of the Regional Assembly, (e) the Chair of 	<p>FAB & Transition Annex</p> <ul style="list-style-type: none"> • Bangsamoro Transition Authority, until 2016 • ministerial form and Cabinet system of government shall commence once the Bangsamoro Transition Authority is in place

	<p>the Senate Committee on Local Government, (f) one (1) other Senator designated by the Senate President, (g) the Chair of the House Committee on Local Government, and (h) one (1) other representative representing a congressional district in the Autonomous Region in Muslim Mindanao designated by the Speaker of the House of Representatives, as members.</p>	<ul style="list-style-type: none">• MILF-led, appointed by the President
Constitutional nature	<p><u>Art III, Sec 1.</u></p> <ul style="list-style-type: none">• an integral and inseparable part of the national territory of the Republic as defined by the Constitution and existing laws• Supervision of the President over the ARMM and LGUs in the ARMM	<p>Bangsamoro</p> <ul style="list-style-type: none">• an integral part of the Philippines• Autonomous region under Article X• FAB, Part I: The relationship of the Central Government with the Bangsamoro Government shall be asymmetric.

ANNEX ON TRANSITIONAL ARRANGEMENTS AND MODALITIES

This Annex on Transitional Arrangements and Modalities lays down, on the basis of the Framework Agreement on the Bangsamoro (FAB), the modalities by which the institutions and mechanisms will become fully operational.

I. THE TRANSITION PROCESS

The Parties agree on the following process that shall guide the transition from the status quo to the entrenchment of the Bangsamoro.

A. Creation of the Transition Commission (TC)

The President of the Republic of the Philippines shall issue an executive order effecting the establishment of a Transition Commission. Congress shall express its support for such establishment.

The Executive Order shall provide for the composition of the TC, its authority and functions, its relationship with government agencies and branches of government, and the budgetary allocation sufficient for its operations.

B. Operation of the Transition Commission

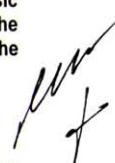
Once the TC is created, it shall exercise its functions in accordance with the FAB and its Annexes, and such other functions that are necessary in the performance of its mandate as provided in the Executive Order.

To facilitate its tasks, it may create technical committees and a secretariat. The TC may also solicit assistance and advice from experts.

The TC shall adopt necessary administrative guidelines for the speedy, efficient and effective performance of its functions.

C. The Bangsamoro Basic Law

The TC shall work on the drafting of the Bangsamoro Basic Law, in accordance with the provisions of the FAB. The proposed Basic Law shall be submitted to the Office of the President. The President shall submit the proposed Basic Law to Congress as a legislative proposal. The bill for the proposed Basic Law shall be certified as urgent by the President.



D. Work on Constitutional Amendments

The TC shall work on proposals to amend the Philippine Constitution for the purpose of accommodating and entrenching in the Constitution the agreement of the Parties whenever necessary without derogating from any prior peace agreements.

E. Ratification of the Bangsamoro Basic Law

The Bangsamoro Basic Law, once enacted by Congress, shall undergo a process of popular ratification by the qualified voters in the core territory of the Bangsamoro identified in Part V, Paragraph 1 of the FAB not later than 120 days from the legislative enactment.

It shall provide for the repeal of Republic Act 9054, and the creation of the Bangsamoro Transition Authority.

F. Bangsamoro Transition Authority (BTA)

The BTA shall have as its core function the preparation for the transition to the ministerial government in the Bangsamoro. It shall exercise governance functions devolved to the Bangsamoro in accordance with the Basic Law, and shall set up the institutions and mechanisms necessary to establish the Bangsamoro ministerial government.



G. Monitoring

A Third Party Monitoring Team composed of international bodies as well as domestic groups shall be created by the Parties for the purpose of periodic monitoring of the implementation of all the agreements.



H. Exit Document

The Parties' respective negotiating panels, together with the Malaysian Facilitator and Third Party Monitoring Team, shall convene a meeting to review, assess or evaluate the implementation of all agreements and the progress of the transition. An Exit Document officially terminating the peace negotiation may be crafted and signed by both Parties if and only when all agreements have been fully implemented.

II. TRANSITION MECHANISMS AND MODALITIES

A. The Transition Commission (TC)

1. The TC shall be composed of fifteen (15) members all of whom are Bangsamoro. Seven (7) members shall be selected by the GPH and eight (8) members, including the Chair, shall be selected by the Moro Islamic Liberation Front.
2. The TC will serve as the central transitional mechanism for the MILF's participation in the joint tasks required under the FAB.
3. The TC will be independent from the ARMM. All government agencies, including but not limited to, the ARMM Regional Government, local government units, and GOCCs shall support the TC in the performance of its tasks and responsibilities.
4. The TC may coordinate with legislative bodies in order to accomplish its duties.
5. The TC shall cease to exist upon the enactment of the Bangsamoro Basic Law.
6. In relation to the TC's task of working on the drafting of the Basic Law and the proposals to amend the Philippine Constitution, the following procedures shall be observed:

[a] The TC shall draft the Bangsamoro Basic Law, using as bases the FAB and its annexes.

[b] The draft Bangsamoro Basic Law, as formulated by the TC, shall thereafter be submitted to the President.

[c] The Panels shall provide the necessary assistance for the passage of the proposed Bangsamoro Basic Law.

[d] The TC shall work on proposals to amend the Philippine Constitution for the purpose of accommodating and entrenching in the constitution the agreements of the Parties whenever necessary without derogating from any prior agreements.

[e] All of the areas enumerated in Part V Item 1 of the FAB shall undergo a plebiscite to determine the territorial jurisdiction of the Bangsamoro.

[f] Areas contiguous to the core territory of the Bangsamoro shall be included in the plebiscite if there is a resolution of the local government unit or a petition of at least 10% of the qualified voters therein. Such resolution or petition shall be submitted to the Parties at least two (2) months prior to the conduct of ratification of the Bangsamoro Basic Law. A majority vote of the qualified voters decides the inclusion in the territorial jurisdiction of the Bangsamoro.

[g] Both Parties agree to the creation of a robust international-domestic monitoring body to be accredited by the Commission on Elections (COMELEC) to monitor the administration of the plebiscite. The monitoring body will have access to all operations related to the conduct of the plebiscite and be able to conduct regular and random checks. The reports of the monitoring body shall be made available to the Panels for their disposition.

The Panels shall request the COMELEC to conduct a special registration before the date of the plebiscite on the Bangsamoro Basic Law. The Parties shall undertake measures to ensure the wide participation in the plebiscite of the people in the core territory of the Bangsamoro.

[h] The Parties shall confirm the fact of ratification of the promulgation of the Bangsamoro Basic Law.

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B. The Bangsamoro Transition Authority (BTA)

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1. The Bangsamoro Basic Law shall provide for the organization and composition of the BTA. Its members shall be appointed by the President.

2. The BTA shall be MILF-led.
3. The BTA shall serve as the main mechanism for the MILF's leadership in the Bangsamoro during the transition process. Once the Basic Law comes into force, and the BTA established, the devolved powers of the new political entity are vested in the Government of the Bangsamoro.
4. The entrenchment of the Basic Law will make it possible for the BTA to assume the powers of governance in the territory of the Bangsamoro, and its local constituent units shall carry out the principle underlying devolution with appropriate inter-governmental fiscal administration and the overall requirements of financial equalization.
5. The BTA shall continue to perform its function as interim Bangsamoro Government until the duly elected officials of the Bangsamoro shall have been qualified into office in 2016.
6. The Parties agree that as a consequence of the change in the territory constituting the Bangsamoro, the Basic Law shall provide for a new redistricting or other modalities of ensuring more equitable representations of the constituencies in the Bangsamoro Assembly.

C.The Third Party Monitoring Team (TPMT)

1. Pursuant to Provision No. VII (Transition and Implementation), Paragraph 11 and 12, of the Framework Agreement on the Bangsamoro (FAB), a Third Party Monitoring Team shall be established to monitor the implementation of all agreements by the Parties.
2. The TPMT is an independent body composed of international bodies, as well as domestic groups, as follows:

- A chair, who shall be an eminent international person;
- A representative from a local non-government organization registered with the Securities and Exchange Commission, to be nominated by the GPH;
- A representative from a local non-government organization registered with the Securities and Exchange Commission, to be nominated by the MILF;
- A representative from an international non-government organization to be nominated by the GPH; and

- A representative from an international non-government organization to be nominated by the MILF.

All members shall be mutually acceptable and agreed upon by the Parties.

3. The TPMT shall be covered by a set of Terms of Reference (ToR) and Guidelines that shall define and frame the scope of its operational functions and administrative requirements. The ToR and Guidelines shall be approved by the Parties.

4. The basic functions of the TPMT are, but not limited to, the following:

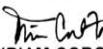
- a. Monitoring and evaluation of the implementation of all agreements
- b. Submit comprehensive periodic reports and updates to both Parties

D. Joint Normalization Committee (JNC)

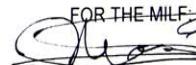
The Joint Normalization Committee shall be created to ensure the coordination between Government and remaining MILF forces, through which the MILF shall assist in maintaining peace and order in the area of the Bangsamoro until decommissioning have been fully completed. Other bodies supporting the work of the JNC shall be defined in the Annex on Normalization.

Done this 27th day of February 2013 in Kuala Lumpur, Malaysia.

FOR THE GPH:


MIRIAM CORONEL-FERRER
GPH Panel Chair

FOR THE MILF:


MOHAGHER IQBAL
MILF Panel Chair

SIGNED IN THE PRESENCE OF:


TENGKU DATO' AB GHAFAR TENGKU MOHAMED
Malaysian Facilitator



In the Name of God, the Beneficent, the Merciful

ANNEX ON REVENUE GENERATION AND WEALTH SHARING

1. This Annex on Wealth Sharing forms part of the Framework Agreement between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) and outlines and elaborates additional details regarding revenue generation and wealth sharing.
2. The Parties acknowledge that wealth creation (or revenue creation and sourcing) is important for the operation of the Bangsamoro, considering that the Bangsamoro territory is among the most underdeveloped in the Philippines due to the decades-long conflict. Moreover, the existing tax base therein is very limited. There is a need to bridge the financial gap between the Bangsamoro's prospective needs and the revenues being created therein. In this way, the Bangsamoro can catch up with the more progressive areas of the country.
3. The Parties commit to jointly pursue measures to increase the Bangsamoro's revenue generation and wealth creation capacity. The Central Government shall devolve powers to create sources of revenues and to levy taxes, fees and charges for the Bangsamoro Government to attain the highest form of fiscal autonomy. The power of the Bangsamoro to create its sources of revenues and to levy taxes, fees and charges shall be guided by the principles of devolution of powers, equalization, equity, accountability, administrative simplicity, harmonization, economic efficiency and fiscal autonomy.

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I. Taxation

A. Taxing Powers

1. All taxing powers already devolved to the ARMM by R.A. No. 9054 and other legislations shall be exercised by the Bangsamoro.

2. Where all taxable elements are within the Bangsamoro, capital gains tax, documentary stamp tax, donor's tax and estate tax, shall be levied by the Bangsamoro and not by the national Bureau of Internal Revenue (BIR), and the same shall be provided in the Basic Law. Where all taxable elements are not situated entirely within the Bangsamoro, the intergovernmental fiscal policy board shall address problems relating to implementation.

Copies of the returns on the said taxable elements shall be provided to the national BIR for purposes of implementing number 3 below.

3. Revenues from the additional taxes beyond those already devolved to the ARMM and the Bangsamoro share in revenues derived from exploration, development and utilization of natural resources will be deducted from the amount comprising the annual block grant. This is without prejudice to the just share of the Bangsamoro's constituent local government units in the national taxes.

These deductions shall be suspended for four years from the full operation of the Bangsamoro.

4. Central Government taxes, fees and charges collected in the Bangsamoro, other than tariff and customs duties, shall be shared as follows:

- a. Twenty five (25%) percent to the Central Government
- b. Seventy five (75%) percent to the Bangsamoro, including the shares of the local government units.

The Bangsamoro Basic Law may provide that the twenty-five percent (25%) due to the Central Government will be remitted to the Bangsamoro for a limited period of time.

5. To encourage investments and other economic activities, the Bangsamoro Government shall have the power to grant tax exemptions, rebates, tax holidays and other incentives with reference to Part C below. The Bangsamoro may also opt instead to impose a

flat rate lump sum tax on small and medium enterprises.

6. The Bangsamoro shall have the power to establish offices for the purpose of assessing and collecting the taxes mentioned herein.

7. The Central Government shall extend assistance to the Bangsamoro Government in the matter of tax administration and fiscal management. This assistance shall include capacity building and training programs.

B. In enacting revenue-raising measures, the Bangsamoro shall observe the principles of uniformity and equity in taxation and shall not impose confiscatory taxes or fees of any kind.

C. All powers over taxes and revenue generation already granted to the ARMM under the Republic Act No. 9054 and other legislations and issuances, including those powers and functions devolved to the ARMM Regional Board of Investments, shall be transferred to the Bangsamoro.

II. Other Sources of Revenue

A. Government income derived from the operations of Bangsamoro government-owned and -controlled corporations, financial institutions, economic zones, and freeports operating therein, shall go to the Bangsamoro Government.

B. The Bangsamoro shall have authority and control over existing government-owned and -controlled corporations and financial institutions operating exclusively in the Bangsamoro territory, after determination by the intergovernmental fiscal policy board of its feasibility.

C. An intergovernmental mechanism shall be created to determine the participation of the Bangsamoro in the ownership and management of Al-Amanah Islamic Investment Bank of the Philippines and the Southern Philippines Development Authority (SPDA).

D. The Bangsamoro Government shall be represented in the board of directors or in the policy-making bodies of government-owned or -controlled corporations that operate a substantial portion of their businesses directly or through their subsidiaries in the Bangsamoro or where the Bangsamoro has substantial interest. The manner of such representation shall be determined in the Basic Law.

E. The intergovernmental fiscal policy board shall determine the

participation of the Bangsamoro Government in the results of operations of government-owned or -controlled corporations and its subsidiaries operating in the Bangsamoro. It shall also determine a formula for the share of the Bangsamoro Government from the results of said operations.

F. The Bangsamoro may receive grants derived from economic agreements entered into or authorized by the Bangsamoro Assembly (donations, endowments, and other forms of aid), subject to the reserved powers of the Central Government over foreign affairs.

G. The Bangsamoro shall also be entitled to benefits resulting from conventions to which the Central Government is a party.

III. Fees and Charges

The Bangsamoro will have the power to levy fees and charges pursuant to the powers and functions that it shall exercise in accordance with the list of concurrent and exclusive powers in the Annex on Power-Sharing, including powers already granted under Republic Act No. 9054 and other legislations.

IV. Grants and Donations

Grants from donors shall be received directly by the Bangsamoro Government and shall be used solely for the purpose for which they were received, if donors specify such purpose.

V. Fund Transfers from Central Government

A. The Central Government shall provide a block grant to the Bangsamoro. The Bangsamoro block grant shall be based on a formula provided in the Bangsamoro Basic Law which in no case shall be less than the last budget received by the ARMM immediately before the establishment of the Bangsamoro Transition Authority. The Basic Law shall also provide a system of automatic appropriation for and regular release of the block grant. The formula shall be subject to review by the Central Government and the Bangsamoro Government after ten (10) years, on the basis of need and actual revenues generated.

B. The Central Government shall also provide for a Special Development Fund to the Bangsamoro for rehabilitation and development purposes upon the ratification of the Bangsamoro Basic Law. The amount of the

Fund that shall be proposed by the Transition Commission in the drafting of the Bangsamoro Basic Law shall be recommended by a joint needs assessment team to be created by the panels for this purpose.

- C. The Bangsamoro Government's annual block grant shall undergo internal budget processes and shall be allocated by the Bangsamoro Government in an appropriations act.
- D. Once the Bangsamoro attains financial self-sustainability, it will also assist other regions in their development efforts.

VI. Contracting of Loans and Overseas Development Assistance (ODA)

The Bangsamoro shall have the authority to contract loans, credits, and other forms of indebtedness with any government or private bank and other lending institutions, except those requiring sovereign guaranty, which require Central Government approval. The Central Government shall assist the Bangsamoro in complying with the requirements for a speedy issuance of the sovereign guaranty, to finance local infrastructure and other socio-economic development projects in accordance with Bangsamoro-approved development plan.

The Bangsamoro is also authorized to issue bonds, debentures, securities, collaterals, notes and obligations to finance self-liquidating, income producing development or livelihood projects pursuant to the priorities established in its approved development plan.

Overseas Development Assistance (ODA) shall be availed of by the Bangsamoro to achieve inclusive growth and poverty reduction, particularly through the implementation of priority development projects for the attainment of the Millennium Development Goals.

In pursuit of its development goals, the Bangsamoro may enter into build-operate-transfer type arrangements under public-private partnerships for the financing, construction, operation and maintenance of any financially viable infrastructure facilities. These arrangements may likewise be supported by foreign or domestic loans, in accordance with relevant laws.

The Bangsamoro shall appropriate in its annual budget such amounts as are sufficient to pay their loans and other indebtedness incurred. The Bangsamoro may also redeem or retire bonds, debentures, notes and other obligations.

The Bangsamoro may borrow from government financial institutions when it needs to finance its development needs.

VII. Natural Resources

Government income derived from the exploration, development and utilization of all natural resources within the Bangsamoro shall be allocated as follows:

1. With respect to non-metallic minerals (sand, gravel, and quarry resources) within the Bangsamoro, such revenues shall pertain to the Bangsamoro and its local government units.
2. With respect to metallic minerals within the Bangsamoro, seventy-five percent (75%) of such revenues shall pertain to the Bangsamoro.
3. With respect to fossil fuels (petroleum, natural gas, and coal) and uranium, the same shall be shared equally between the Central and Bangsamoro governments. Both Parties shall endeavor to provide for a review mechanism in the Basic Law with regard to this sharing arrangement.

The shares of the Bangsamoro above shall include those for its constituent local government units, as shall be provided by law.

The Bangsamoro Sustainable Development Body referred to in the Framework Agreement (Part IV, Sec. 8) shall get funding support from the proceeds of the revenues collected from these sources.

01/ SM M VIII. Additional Fiscal Powers

Both parties recognize the Bangsamoro aspiration for the exercise of additional fiscal powers in order to reach full fiscal autonomy and shall cooperate towards achieving this goal through necessary processes and modalities.

IX. Auditing Body

The Bangsamoro auditing body shall have auditing responsibility over public funds utilized by the Bangsamoro. The Bangsamoro Basic Law shall provide for a clear delineation of the Bangsamoro auditing body.

This should be without prejudice to the power, authority and duty of the national Commission on Audit to examine, audit and settle all accounts pertaining to the revenues and the use of funds and property owned and held in trust by any government instrumentality, including GOCCs.

The Bangsamoro shall ensure transparency mechanisms consistent with open government practices.

X. Intergovernmental Fiscal Policy Board

The intergovernmental fiscal policy board shall be composed of the heads and/or representatives of the appropriate ministries and offices in the Bangsamoro Government. The Central Government shall likewise be represented in the Board until full fiscal autonomy is achieved. The board may create a secretariat and sub-committees as it may deem necessary.

To address revenue imbalances and fluctuations in regional financial needs and revenue-raising capacity of the Bangsamoro, the Board shall undertake periodic review of the taxing powers, tax base and rates of the Bangsamoro Government, wealth sharing arrangements, sources of revenues, vis-a-vis the development needs of the Bangsamoro. An annual report shall be submitted by the body to the Central Government and the Bangsamoro Government.

XI. Bangsamoro Development Plan

The Bangsamoro shall formulate its development plans, consistent with national development goals but recognizing their unique needs and aspirations. Towards this end, the Bangsamoro may participate in national development planning. The plan shall also consider the revenue generation efforts needed for the post-conflict rehabilitation, reconstruction, and development in the region.

XII. Gender and Development

In the utilization of public funds, the Bangsamoro shall ensure that the needs of women and men are adequately addressed. For this purpose, the Bangsamoro shall set aside at least 5% of the official development funds that it receives for support programs and activities for women in accordance with a gender and development plan.

Done this 13th day of July 2013 in Kuala Lumpur, Malaysia.

FOR THE GPH:


PROF. MIRIAM CORONEL-FERRER

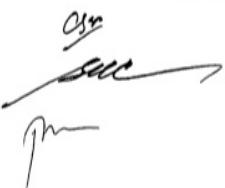
GPH Panel Chair

FOR THE MILF:


MR. MOHAGHER IQBAL

MILF Panel Chair

SIGNED IN THE PRESENCE OF:


TENGKU DATO' AB GHAFAR TENGKU MOHAMED

Malaysian Facilitator

**POSTSCRIPT:
ZAMBOANGA CITY STANDOFF**

MY THOUGHTS ON THE ZAMBOANGA CITY STANDOFF

Gen. Benjamin Dolorfino

Editor's Note: Retired military Gen. Benjamin Dolorfino, former head of Western Mindanao Command and convenor for the Philippine Center for Islam and Democracy, shares his thoughts on Zamboanga City crisis.

Sept. 30, 2013

Assalamu alaikum wa rahmatullahi wa barakatuh!

If a Mediation Team is given due course, the priority efforts must be to reach out to Misuari and key MNLF leaders to establish immediate communication, facilitate the calming down of heightened emotions and clarify the government's intent as far as the Tripartite Review is concerned. I dealt with them for quite a time in the renewed MNLF peace process for the full implementation 1996 FPA. The Tripartite Review is the only venue that gives them hope that the FPA will be fully implemented and the means where they can officially ventilate their position on the current ARMM issues and concerns, including the ongoing GPH-MILF Peace Process. As I pointed out last Thursday[1], the MNLF has so much expectation out of the Tripartite Review. By denying them this venue, they have no other recourse but look for other means to ventilate their position.

In order to gain attention, thus far this has lead to the declaration of an independent Bangsamoro Republik, a series of peace rallies and, recently, the sudden resort to violence. Is this a case of no other recourse but violence because their peaceful posturings were ignored by the government? The violent Zamboanga City standoff could have been nipped on the bud if only third party mediation was allowed by the government.

In February 2007, Ustadz Malik hostaged me because of the continued failure of the Tripartite Review to take off after more than one (1) year that it was announced by the government. He told me that he is tired of fighting and that it is his only hope that the remaining issues will be resolved so that they can return to a peaceful life.

I had a lengthy conversation with Chairman Misuari in Beachside Inn, Bongao just before the May elections. Among others, he told me that there are still so many matters to be resolved in the Tripartite Review so he expects the process to go on. He also mentioned that the MNLF in Jolo will continue to help the government in eliminating the ASG in Jolo. He joked that Ustadz Malik has been itching to continue the fight with the ASG. This was one of his informal commitments to me when I started to engage him into the renewed MNLF peace process in his prison cell at Ft, Sto. Domingo on November 5, 2005.

In a chance meeting with a senior OPAPP official at the Zamboanga City airport sometime in the first week of May this year, he informed me about the GPH intent of giving closure to the Tripartite Review. I was alarmed because this might be misinterpreted by the MNLF as a government's way of saying that the FPA has been fully implemented. I warned him about a possible violent repercussion if this is not formally explained to the MNLF leadership. He told me that the government considers the MNLF a spent force. See what happened?

In last Thursday's forum, I learned from the handouts that the closure of the Tripartite Review would lead to another process that will pave the way for government actions that would give due course and flesh to what have been achieved by the Review. This has to be explained well to the MNLF. In the meantime that "wounds" and wedge have been created between the GPH and MNLF, a third party mediator must get into the picture to promote peace and normalize the situation. In the absence of communication, it will be guns that will continue to do the talking.

I would like to emphasize that their experience in dealing with the government has been telling them never to trust the government. In my first encounter with Misuari, he talked for 5 hours without interruption all about the struggle and the continued government insincerity. They will only talk if there is a third party

involved. The creation of a third party mediator will be a good move.

THE ZAMBOANGA CITY CRISIS: SOME SEARCHING NOTES

Grace Jimeno-Rebollos

Editor's Note: Grace Jimeno-Rebollos is a university professor, former president of Western Mindanao State University, and regional convenor for the Western Mindanao Cluster of Bantay Bayanihan.

September 24, 2013

The facts and figures of the humanitarian crisis in Zamboanga City can easily be culled out of reports from the Department of Social Welfare and Development. To date, the number of evacuees has been placed at 126,407 – more than a tenth of the entire population of Zamboanga City – spread out to some 85 evacuation centers. The biggest of these is the Joaquin F. Enriquez Memorial Sports Complex, housing about 70% of the entire evacuee complement. Around these centers are places where food is cooked and prepared en masse for turn over to the evacuation centers. Furthermore, strewn across the city are private homes accommodating households on the run.

Hostages released (i.e., who have managed to escape) number 183 as of the latest count. There is no way of determining the precise number of those who are still in the custody of the MNLF as they take in more as they retreat. It is rumored that these hostages are anywhere between 21 and 50, with a few unable to walk

because of wounds. On the other hand, there are those who refuse to be released for fear of snipers.

The combatants on both sides have suffered casualties as well. Killed in action: 12 soldiers and 3 policemen, on one hand, and 86 MNLFs on the other. 103 government forces are reportedly wounded, while 85 of the MNLF have been captured or surrendered.

In the meantime, the President has considered shelling out a staggering amount of nearly PhP 4 Billion to cover housing, education, livelihood, etc.

The following are the result of observations on various aspects of the crisis. We wonder and hope these thoughts are taken in the interest of seeking positive ways forward.

1. Intelligence:

The security sector claims to have possessed intelligence information on the entry of threat elements into Zamboanga City and the massing up of firearms being landed through coastal barangays. These would have easily pointed to the possibility of an attack. Over the last few months, the sale of motorcycles with XRM engines rose so suspiciously high. One hypothesis is that since these engines could also be convertible to pump boat engines, they can give more access and mobility by sea. With this information, what could have been done

to forestall the Zamboanga Raids? Late Sunday night, prior to the early Monday raids, men in civvies were uncharacteristically massing up and loitering along the boarding houses of Lustre and other places in Sta. Barbara. They donned their uniforms by early dawn and bore long high powered firearms that had red ribbons tied to their barrels. How could this have been missed?

2. Negotiations:

Day 1 (9 September 2013): Local civil society had suggested options for a more culturally-nuanced approach to negotiation. This would have been represented by a team of negotiators that included members of the Sulu-based Bantay Bayanihan who incidentally were in Zamboanga City to attend a peace forum on the Bantay Bayanihan. These were partners who were doing projects with the MNLF communities and who were familiar with Chairman Misuari and Ustadz Malik. At 4:00 PM, after several attempts to contact the local Crisis Management Committee (CMC), local civil society was met by Mayor Maria Isabelle Climaco at the Claret Lay Formation Center. The offer was made to help with negotiations, with the group requesting for a mandate. The Mayor was non-committal on this and the grant of the mandate was not explored deep enough because she was moving on to a press conference. As she left, she suggested that Fr. Albert Alejo be contacted for details.

Day 2 (10 September 2013): Toward lunch time, the local civil society's team of potential negotiators sought an audience with the sub-committee on negotiations led by PNP Col. Gucela. Together with them was the Deputy Mufti Ustadz Abdulwakil Tanjilil, representing the Darul Ifta, and other Muslim elders. The local civil society was confident that this team, being Tausug, knew the approach to a fellow Tausug such as Ustadz Malik. They had, in fact, already contacted the latter who agreed to the 6-person composition of the team and who further admonished them to take only one vehicle. They were even provided with the green foot-long sticker labeled "Mediator".

It was agreed that they would be transparent to Col. Gucela, and that all they needed was a mandate from the Crisis Management. Unfortunately, the mandate was never given for, as they were about to leave, Fr. Albert Alejo, arrived and took over the negotiation plans with his own approach and his own preferred emissaries. He had the Mayor talk to Ustadz Malik and, later on, Chair Misuari. Local civil society has been marginalized. The rest is history.

Day 6 (14 September 2013): Members of local civil society regrouped to analyze the developing situation and recommend certain potential courses of action for consideration by President Aquino. Towards noon, Fr. Angel Calvo was able to arrange for a meeting with DSWD Secretary Dinky Soliman, at 2:00 PM. This was followed

by a press conference at which a statement was read by the Interreligious Solidarity for Peace. A reiteration of the statement ensued at DXRZ – Radio Mindanao Network – where Fr. Calvo and Prof. Ali Yacub were further interviewed regarding civil society's position.

It must be noted that the events in Zamboanga was being monitored by various civil society groups since Day 1. The communication lines of the Mindanao neighborhood had been on fire, with the expressions of outrage and the call for a humanitarian ceasefire gaining momentum to cover like-minded organizations and individuals all over the world. To date, that call has been echoed by over 200 (and counting) local, national, and international groups that include the Mindanao Peaceweavers,

Some lessons:

a. One avoids doing the direct approach of letting the principal (in this case the Mayor) negotiate with the other party. This would place her/him in a compromising situation, leaving no fall backs in case negotiations fell through.

b. Negotiators, if possible, should negotiate in situ. Face-to-face presence can signify goodwill that is bolstered by the calculated willingness to risk danger (hence, the call for a ceasefire), and the possibility of optimizing positive body language (like being able to

obtain the release of a few, if not all, hostages).

c. What was the concept of the exchange? What were the choices? What were the practical expectations for the other side to relent? How much value has been placed on life? Not wanting a repeat of Cabatangan was a constant mantra, i.e., no safe conduct pass. Yet the lives of civilian hostages figured much in the dilemma. As the battle approached its 9th day and while many called for accountability and all-out prosecution, some others have begun to consider conditions that would have diminished the destruction to life and property, and limited the number of IDPs.

d. Culture and Language: The happy discovery that Ustadz Malik spoke Chabacano could not substitute for the bonding of Tausug speakers. Further, there are words that are NOT directly spoken, and euphemisms may be sought in lieu of terms like “surrender” which - we are told - is not in Tausug lexicon; an understanding of “maltabat” and “sipug”; even the extreme possibility of the “sabil” in a vow to the finish. In 2006, when over 200 members of local and international civil society and the Mindanao Peaceweavers went to Sulu for a solidarity mission on the Centennial of the Bud Daho Massacre, the terms “reconciliation”, “healing”, seemed to have no exact meaningful equivalents in Tausug. A sensitivity to the cultural nuances of the negotiations would have been more likely for those native to Sulu.

3. The Peace Process and Revisiting OPAPP's Role:

If there is anything that has drawn the Zamboangueño mind to the peace process, it is this crisis. But what is the peace process? Qualifying the peace process as the job of OPAPP only and the shift to Level 4 and the consequent relinquishment of responsibility to the National CMC, has...

- a. Forced the OPAPP to explain what it was doing, its confusion over Misuari's inconsistencies and mixed messages, and that the government was not remiss in its peace efforts. The constant interviews on radio and television would dish out stereotyped arguments that people have long heard, in tones that clearly showed OPAPP's defensive attitude.

- b. Given the notion that the peace process is not a local – but a national – concern. Hence, in conclusion, locals need not bother with it. Even the Chair of the local CMC qualified the limits of her responsibility, and that did not include the peace process. While technically the peace process is OPAPP's stuff, the opportunity to familiarize the local citizenry on it has been missed in favor of the call of the moment and the declaration of "calibrated military action". Clearly, the crisis has driven a wedge between Muslim and Christian communities. Considering the Muslim-Christian

divide that has deepened, turning to civil society may have helped. It was observed, though, that only a specific clique of civil society organizations were welcome to read statements at city hall.

c. Led to difficult questions of whether OPAPP remains to be an effective instrument for working for the peace process, or whether it has to revisit its mandate of dealing with particular segments of Moro leadership (like the MILF, with the FAB and its annexes) through their own roadmap, or the ICC and Sema segments of the MNLF); or whether or not it pushes more assertively for a fusion of these different Moro groups, convince their leaders to move out of their comfort zones, soften their differences, and courageously rise up to the moral high ground of working for the Bangsamoro people. While this is easier said than done, many see that unless this is done, peace will never be attained. We shall need to think out of the box.

4. The Role of Media

One cannot overemphasize the role of media in their call for support and “Zamboanga Hermosa” advocacy. In these days of the beleaguered homeland, it is even an obligation to do so. However, the use of media for incendiary purposes (e.g., the call to arm, “bring out your arms and defend Zamboanga”), intensifies

the tension and gets people to miss the point about the violent events.

There is also the need to balance mis/disinformation with the realities on the ground. Text messages flying thick and fast - about sightings in some coastal areas and bomb threats in various places of Zamboanga Peninsula and Basilan - drive people to paranoia and to various acts of desperation.

5. IPSP and Bantay Bayanihan: Where do we draw the lines of engagement for Bantay Bayanihan (BB) as it has been acknowledged to be a partner of the Armed Forces of the Philippines' Internal Peace and Security Program (IPSP)? Zamboanga Crisis was a test for its implementation. We were not remiss in calling attention to the need for "talking". Amidst the burning of the houses, our interlocutors were in no mood to meet us, and even exhorted us to "forget Bantay Bayanihan". The relevance of the IPSP-BB partnership is weighed against extreme encounters like this, and when push comes to shove, the military will exercise what it does best - fire the gun ostensibly under the orders of the commander-in-chief.

CONCLUDING THOUGHTS:

1. Divergence rather than convergence: The use of a variety of approaches and giving place to as many actors to work on certain segments of a problem

will allow more surface area for action. These days' buzzword of "inclusiveness" must apply.

2. The peace mode: Local and external civil society's call for humanitarian ceasefire was not met with approval because of what the local leadership and the population felt as the call for justice and accountability. Given the dilemma of life vs. the MNLF's safe conduct pass, it would still have been the military option, no matter whether the negotiations could have possibly nipped this catastrophe in the bud. Local society was pushed to the wall on this one. The Mayor's being pressured to come on top of the situation and enforce the law saw through her sad face. People were literally calling for the blood of the MNLF – the group that has inflicted wanton havoc on our city. Where then is the place of peace in these circumstances? Ever?

3. The call to violence: What drives a group of people to violence? A cause that is larger than life, like hulah, bangsa, agama? A need that is rumored to be answered by PhP 10,000? A friendly walk around the prime city of Western Mindanao, with one's flag unfurled at its city hall? The values of reciprocity and equivalence where beneficence is practiced toward a kin or a friend and, conversely, pain and annihilation on an enemy? Who is the enemy? What about collateral damage?

4. Trust and confidence: With confidence at an all time low, who is there to trust? The Zamboanga crisis

has tested the leadership of so many, from the national leaders, to the mayor, to barangay leaders, to intellectuals who purport to know what peace means. We take heart in leaders who have descended from their high horses to minister to the sick and wounded, who have donned the apron to cook for the hordes of evacuees, who have served as grub leaders for their displaced communities. Still we seek leaders with no doubtful agenda... leaders we can trust.

5. Human Rights, International Humanitarian Law, Rule of Law: On a massive basis, the use of human shields, holding people against their choice, the segregation of men and women in some evacuation centers, forced evacuation (except for reasons of civilian protection in anticipation of military action), deprivation of food, shelter, clothing; the prospect of being homeless and disempowered, have markedly raised the consciousness of this community to human rights, the rule of law, and the international humanitarian law. The politics of the everyday, the regular, and the ordinary do not as dramatically command this much attention. But these are now longed for, as normal activities - classes, basic services, and business and economic pursuits - are driven to a halt. It is bad enough that floods and typhoons can get masses of people displaced. It is cruel and obscene that human depravities trigger this.

CALL TO ACTION:

At this point, the thoughts of Jules Benitez are worth sharing:

“Let's channel our anger, tears and frustrations towards a definitive action.

These, the national and city governments, owe us, the residents of Zamboanga City:

1. The truth surrounding the armed violence wrought by the AFP and the MNLF;
2. Indemnification for all the civilian victims of the violence.

These, the civil society groups must immediately act on:

1. Organize a fact-finding mission to render an impartial account of the Zamboanga September Violence;
2. Documentation of all civilian victims and push for the indemnification of all victims;
3. Craft Early Recovery Program for all the communities directly affected by the armed violence and pursue such program with the government and non-government development agencies;

4. Push for the immediate reconstruction of all damaged social services and infrastructures.

The City Government, henceforth must:

1. Establish program to strengthen inter-cultural understanding and solidarity;
2. Establish a system for barangay-based community security planning;
3. Enforce strict gun ban in the city.
4. Establish open and diplomatic communication lines between the city and the MNLF and MILF."

THE OWL'S VIEW OF THE ZAMBOANGA SIEGE

Fr. Eliseo Mercado Jr., OMI

October 1, 2013

I am writing again simply to share another 'perspective' of events and tragedies that has befallen Mindanao. I have adapted my symbolic bird - the Owl - to present the perspective not only from the ground or frontlines but also from the night where the real things are kept hidden.

The owl stands as a singular watch during the night. The owl is, also, the symbolic bird often used to communicate wisdom. And in the crisis brought about by the Zamboanga siege, more than ever, people have to stand on watch not only for the people (rebels) that menace their security but also for the policy makers whose grave 'miscalculations' have unleashed an equally destructive force.

I share the view of many social analysts who subscribe to the often repeated saying that 'war is but the unfolding of miscalculations'. There are two basic 'miscalculations' unfolded by the '2013 Battle of Zamboanga'. The first is the premise of government peace adviser/s that Chairman Nur Misuari is a 'spent force'. The second is the delusion of both government policy makers and security forces that the MNLF is so divided to be able to pose any threat to national security. On both grounds, government's peace adviser and

security intelligence have gravely erred. And the people paid dearly for such grave error of judgment!

A little look ‘backward’, the previous administration of former President Gloria Macapagal-Arroyo, after several attempts to engage Chairman Nur, had finally decided that further efforts would be futile. A conspiracy was concocted with the cooperation of the Chairman’s trusted men within the MNLF Central Committee to ‘dislodge’ Chairman Nur Misuari not only from the ARMM hierarchy but also from the very MNLF leadership structure. The group formed was, for some time until it self-destructed, known as the Executive Council of the 15 or EC 15- referring to the 15 MNLF prominent leaders that plotted with government ‘operators’ the ‘ouster’ of Chairman Nur from the MNLF leadership structure. They ‘retired’ Chairman Nur and they appointed him as MNLF ‘Chairman Emeritus’.

No doubt, the government had always seen Chairman Misuari as a difficult partner (to say the least) in the implementation of reforms and the needed development in Muslim Mindanao. The so-called Misuari ‘trajectory’ post the 1996 Final Peace Agreement was both ‘intractable’ and ‘judged by government as a dismal failure’. Chairman Nur had his period of ‘GLORY’ as Governor of the Autonomous Region and Chairman of the two transitional mechanisms - the Southern Philippines Council for Peace and Development (SPCPD) and the Consultative Assembly.

It was much easier for the government to oust Chairman Nur from the ARMM, but it was altogether a different story in the attempts to dislodge him from the MNLF hierarchy. The former was a successful undertaking and in no time government anointed one of Chairman's trusted lieutenant and a leading member of the EC 15, Dr. Parok Hussin, as their new 'horse' to run the affairs of the ARMM. The latter ended as a miserable failure.

The MNLF rank and file and the field commanders have, by and large, remained faithful to Chairman Nur Misuari. Notwithstanding the government propaganda that Chairman Nur was a 'spent force' and his group of MNLF was branded as 'rogue MNLF'. The irony of it all was the belief that Chairman Nur under house arrest would be an easy target to destroy by state mechanism. But government and the EC 15 underestimated the 'mystic' or 'magic' of Chairman Nur. The Organization of the Islamic Conference or OIC continued to recognize Maas Nur Misuari as the CHAIRMAN of the MNLF. The 'coup' staged by the EC 15 never took off the ground.

When government saw the futility of their attempts to dislodge Chairman Nur, the EC 15 met for the last time sometime in 2008 and it restored Maas as the UNDISPUTED CHAIR of the MNLF and the EC 15 self-destructed. By doing so the EC 15 hoped that they, too, would all be restored to their positions - a sort of maintaining the 'status quo ante'.

I was asked by the EC 15 and government to speak to Chairman Nur and plea for the acceptance of this formula for the 'GOOD' of the entire MNLF. I did talk to Chairman Nur on a one-on-one basis and I used all my power of persuasion and 'wiles' to convince Chairman Nur. I, too, was NOT only a failure in this regard but Chairman Nur gave me a two-hour tutorial on Betrayal 101. There was NO HOPE of reconciliation, for the simple reason that Chairman Nur considered the EC 15 as TRAITORS and to him this is a CAPITAL OFFENSE!

Editor's Note: Visit www.iag.org.ph to read the rest of this series on the MNLF.

ABOUT THE INSTITUTE FOR AUTONOMY AND GOVERNANCE

The Institute for Autonomy and Governance (IAG) is an independent and non- partisan think tank founded in 2001 to generate ideas on making autonomy an effective vehicle for peace and development in the southern Philippines.

IAG views autonomy as a broad and evolving concept that encompasses any political structure that is less than an independent state. It provides the country's minority Muslim and Indigenous Peoples platforms to evolve self governance structures whether federal, autonomous or associative.

IAG continues to conduct research, fora, roundtable discussions, and conferences on the issues of autonomy, good governance and political settlements between the GPH and the Rebel Fronts (MNLF and MILF). It has published policy papers and journals on political, economic, and security issues that define the much needed measures to be undertaken for meaningful self-governance in the region.

IAG also provides support to the ARMM Executive and the Iranon Development Council (Buldon, Barira, Matanog, Parang and Datu Blah Sinsuat), specifically in capacity-building with focus on the processes of policy formulation and legislation.

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